

Declassified and Approved For Release 2013/10/30 : CIA-RDP13X00001R000100190005-9

HAL-HAO

Declassified and Approved For Release 2013/10/30 : CIA-RDP13X00001R000100190005-9

001a

Date 10 August

To: General Magruder

For your signature.


Howard S. Gady
Secretariat

Office of the Secretariat

(9159)

17.271
Handwritten signature
1. Tolson

20 August 1945

The Honorable W. A. Rosten
 Committee on Foreign Affairs
 House of Representatives
 Washington, D. C.

My Dear Congressman:

In General Conway's absence I am writing to acknowledge your letter of 21 July concerning Major Donald Hendon of New York City and his application made in April for an appointment to the staff of the Office of Strategic Services.

Major Hendon's application was given special consideration by several branches of OSS in the hope that it would be possible to make use of his service as an aviator assignment. The reports which I have received from those branches indicate that Major Hendon was considered unsuitable for aviator field assignment at the time. Furthermore, as a result of the continuing expansion of our activities required by the current operations of our organization there were no openings in those branches.

We are indeed sorry that it was not possible for us to offer Major Hendon an assignment and we appreciate your interest in writing us.

Sincerely,

Handwritten signature
 J. Edgar Hoover
 Director

Form 3054 (3308)

Date _____

To: _____

From: _____

Subject: _____

PPB

Let me know about this.

Form 3054 (3308)

To: Lt. ~~Stettin~~

Let me know about this.

WJD

7/24/45

Director's Office

July 21, 1948.

My dear General Donovan:

I have been requested to contact you in behalf of Major Daniel Handler of New York City, who filed application recently for an appointment to the staff of the Office of Strategic Services.

Major Chandler is very anxious to obtain an appointment to your staff, and I should appreciate being advised concerning the present status of his application and his prospects for obtaining an appointment in the near future.

Sincerely yours,

Maj. Gen. William J. Donovan, Director,
 Office of Strategic Services,
 25th & E Streets, N. W.,
 Washington, D. C.

50, CV

RESTRICTED

23 April 1945

John H. Harbo
White House

Dr. Edward G. Mason
 Deputy to the Assistant Secretary
 for Economic Affairs
 Department of State
 Washington, D. C.

Dear Sir:

Your letter of 12 April to General
 Danahy has come to me for reply in his absence.
 This office is glad to approve the work program
 in the Latin American field which you describe
 in your letter. It will, of course, be essential
 that we be given access to the relevant materials
 in the hands of the Department, and I assume that
 arrangements for this will be made by you. I have
 authorized Dr. Halperin to develop the details of
 the program with the Department's representatives.

Sincerely yours,

Charles J. Chastor
 Acting Director

RESTRICTED

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

In reply refer to ILH

April 12, 1946

My dear General Donovan:

I understand that there have been informal discussions between Dr. Halperin, Chief of the Latin American Division of your office and Mr. Mulliken, Chief of the Division of International Labor, Social and Health Affairs of the Department, with reference to making certain studies in the Latin American field.

There have been outlined a number of possible projects relating to the political significance and influence of the labor movement in certain countries, the attitudes of organized workers toward the United States, the influence of Communism, Socialism, Falangism and similar movements as they affect or are related to labor movements, the attitudes and policies of governments of the other American republics toward labor and other related subjects.

I would very much appreciate your giving your approval to having this work performed for the Department and authorizing Dr. Halperin to develop the details of the projects with representatives of the Department.

Sincerely yours,

Edward S. Mason

Edward S. Mason
Deputy to the Assistant Secretary
for Economic Affairs



Major General William J. Donovan,
Director,
Office of Strategic Services,
25th and E Streets, N.W.,
Washington 25, D.C.

16.7057 400.2

Date 26 Jan 45

To: Lt. Bane

The attached proposed 7th Indorsement was discussed with Lt. Sarvis, PPB. who agreed that it is a more appropriate reply than the one suggested by him.


PETER F. PUGLIESE
1st Lt., AUS

Office of the Secretariat

(9:39)

DATE 26 Jan 45

To: Chief, PPB 103 North Bldg

Forwarded as a matter pertaining to your office.

Officers Section
Rm 21 Toner Sch

FROM: _____

12:14

EXT. _____

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Lt. C. A. Hane, Secretariat
FROM : Lt. B. C. Sarvis, Personnel Procurement Branch
SUBJECT: Attached Correspondence Re: 1st Lt. Edward L. Hansen

DATE: 24 Jun 45

In accordance with telephone conversation, returned herewith is request for transfer and indorsement thereto on above named officer.

It is requested that the following seventh indorsement be added to be signed "For the Director."

1. Returned without action.
2. Attention is invited to preceding fifth indorsement.

B.C.S.
B.C.C.

16, 12/4
Hansen

Lt. C. A. Hine, Secretariat

24 Jan 45

Lt. B. C. Servis, Personnel Procurement Branch

Attached Correspondence Re: 1st Lt. Edward L. Hansen

In accordance with telephone conversation, returned herewith is request for transfer and indorsements thereto on above named officer.

It is requested that the following seventh indorsement be added to be signed "For the Director."

1. Returned without action.

2. Attention is invited to preceding fifth indorsement.

B.C.S.

2025 Release under E.O. 14176, 4th Ind
Army A.L. Brown, Washington 25, D. C., 19 January 1946

To: Director, Office of Strategic Services, Washington, D. C.

For the above reasons, it is recommended that the proposed rule be approved.

1. THE COMMANDING GENERAL, ARMY AIR FORCES:

27/08

C. E. HAMILTON, Major, 2 Co.
 Expedition, Manning Expedition
 Col. Robert Dr. M.H.
 Lieut. Asst. Chief

COX, William, Edward L. (C) 7th Ind. 100-101
 DIRECTOR OF STRATEGIC SERVICES, 80th & C Sts., N.W.
 Washington, D. C. 26 January 1945.

TO: Commanding General, Army Air Force, Washington, D. C.

in view of 8th Indorsement request contained 1 and
 recommendation is not favorably considered.

To: The Director:

CHARLES A. EATON
Lt., USN
Order, Georgetown, Guyana

COPY

16, 12 '44

Hansen

SECTION M
 AAP REDISTRIBUTION STATION NO. 4
 SANTA ANA ARMY AIR BASE
 Santa Ana, California

19 December 1944

SUBJECT: Transfer or assignment to Intelligence Corps,
 U. S. Army.

TO : OFFICE OF STRATEGIC SERVICES, Washington, D.C.,
 Attention--Major Little.
 (Thru Channels)

1. Request that I be considered for transfer or assignment to the Intelligence Corps, U. S. Army.

2. Upon my enlistment in the U.S. Army, I had just resigned my commission as a 1st Lieutenant in the Air Corps, California State Guard. In which I was a flying officer.

3. The extent of my schooling has been the completion of High School and in addition some night school. Inasmuch as I have been working since I was eight years of age in positions requiring responsibility, I feel my non-academic education has contributed greatly to my general knowledge.

4. I have recently returned from 2 years overseas duty in the Pacific-Asiatic and European theaters of operations. My assignment there was as a Glider Pilot. I flew over 400 combat hours and 120 missions in C47's and gliders. Landing a glider in Southern France during the invasion, I fought with the paratroopers for four days until relieved.

5. My reason for requesting this transfer is due to my interest in this type of work and the training I have had in investigation, photography and other allied subjects, plus Army experience listed in supporting letter. I believe I would be of more value to the service in an investigative capacity, than in my present assignment.

/S/ Edward L. Hansen
 EDWARD L. HANSEN O-1703377
 1st Lt. A.C.

8 Incls

Personal Ltr. Requesting Transfer
 Ltr. Recommend. 1st Lt. H.J. Wade, A.C.
 Ltr. Recommend. Lt. Col. J. Pierce, AGD, CSG.
 Ltr. Recommend. Capt. J.H. Engelbrecht, A.C.
 Ltr. Recommend. 1st Lt. B.Y. Allen, A.C.
 Ltr. Recommend. Capt. J.A. Orlenton, A.C.
 Copy of Recent #64 Examination.

Subj: Transfer on Assignment to Intelligence Corps dtd 19 Dec 44.

HANSEN, Edward L. 1st Lt A.C. 1st Ind DM/RBK/mok
O-1702877

TO: SECTION, AAFRS#4, SAAAB, Santa Ana, California, 20 December 1944.

TO: Director of Activities and Operations, AAFRS#4, SAAAB, Santa Ana, California.

1. Forwarded.
2. Subject Officer has been assigned to AAFTO, Stout Field, Indianapolis, Ind.

/s/ Robert B. Kenaston
ROBERT B. KENASTON,
Captain, Air Corps,
Commanding Section M.

8 Incls: n/c

HANSEN, Edward L. 1st Lt. A.C.
O-1702877

2nd Ind D/AGK/jw
OFFICE OF DIRECTOR OF ACTIVITIES & OPERATIONS, AAF Redistribution
Station No. 4, SAAAB, Santa Ana, California. 21 Dec 44.

TO: Office of Strategic Services, Washington, D.C., (ATTN: Major Little). THRU: Commanding General, AAF Redistribution Station No. 4, SAAAB, Santa Ana, California.

Forwarded.

For the Director:

/s/ Arnold G. Kioski
ARNOLD G. KIOSKI
Captain, Air Corps
Asst to Director (Adj)

8 Incls: n/c

16. H. 16
1100 5000

HANSEN, Edward L. 1st Lt. A.C. 3rd Ind. AF/NBS/bgr
O-1702317
HQ., AAP REDISTRIBUTION STATION #4, SAAAB, Santa Ana, Calif.
23 Dec 1944

TO: Commanding General, AAP Personnel Distribution Command,
Atlantic City, New Jersey.

Forwarded and reference is made to Paragraph 2, 1st
Indorsement.

For the Commanding General:

/S/ Norwood B. Smith, Jr.
NORWOOD B. SMITH, JR.,
Major, Air Corps
Assistant Adjutant.

3 Incls:
n/c

F#2
352.11 4th Ind. MEG/cbk
HQ AAP Personnel Distribution Command, Atlantic City, New
Jersey, 3 January 1945.

TO: Commanding General, 1 Troop Carrier Command, Stout
Field, Indianapolis, Indiana

Forwarded as a matter pertaining to your Command.

FOR THE COMMANDING GENERAL:

/S/ John F. Williams
JOHN F. WILLIAMS
Captain, A. C.
Adjutant

3 Incls:
n/c

COPY

Ltr fr 1st Lt. Edward L. Hanson, O-1702877, Section M. AAF
Redistribution Station No. 4, Santa Ana, Cal, 19 Dec 44, to
Office of Strategic Services, Washington, D. C. (Attn:
Major Little), thru channels, subj: Transfer or Assignment
to Intelligence Corps, U. S. Army.

A-2-10360

5th Ind.

HEADQUARTERS I THOOP CARRIER COMMAND, Stout Field, Indianapolis,
Ind., 10 January 1945.

TO: Office of Strategic Services, Washington, D. C. (Attn:
Major Little) (THRU: Commanding General, Army Air Forces,
Washington 25, D. C. ATTN: Asst. Chief of Air Staff,
Intelligence, Training Plans Division.

Favorable consideration of application is not recommended
as it is apparent that Subject officer does not possess
necessary qualifications for the assignment.

For the Commanding General:

/s/ H. H. Jones
H. H. JONES
Lt Col, A. G. D.
Adjutant General.

Corrected Listing:

7 Incls:

- Incl 1 - Personal Ltr Requesting Transfer (in quint)
- Incl 2 - Ltr Recomm. 1st Lt. R. J. Wade, AC
- Incl 3 - Ltr Recomm. Lt. Col. J. Pierce, AGD, CSG
- Incl 4 - Ltr Recomm. Capt. J. H. Engelbrecht, AC
- Incl 5 - Ltr Recomm. 1st Lt. B. Y. Allen, AC
- Incl 6 - Ltr Recomm. Capt. J. A. Crichton, AC
- Incl 7 - Certificate of #64 Physical Exam. (in quint)

SECTION II
APPENDIX A
APPENDIX B
APPENDIX C
APPENDIX D
APPENDIX E
APPENDIX F
APPENDIX G
APPENDIX H
APPENDIX I
APPENDIX J
APPENDIX K
APPENDIX L
APPENDIX M
APPENDIX N
APPENDIX O
APPENDIX P
APPENDIX Q
APPENDIX R
APPENDIX S
APPENDIX T
APPENDIX U
APPENDIX V
APPENDIX W
APPENDIX X
APPENDIX Y
APPENDIX Z

30 December 1944

1. The following information is submitted for the purpose of showing

2. The following information is submitted for the purpose of showing

3. The following information is submitted for the purpose of showing

4. The following information is submitted for the purpose of showing

5. The following information is submitted for the purpose of showing

6. The following information is submitted for the purpose of showing

7. The following information is submitted for the purpose of showing

a. Spanish
b. Italian
c. German
d. French
e. Dutch
f. Portuguese
g. Russian
h. Polish
i. Czech
j. Slovak
k. Hungarian
l. Romanian
m. Bulgarian
n. Serbian
o. Croatian
p. Slovenian
q. Macedonian
r. Albanian
s. Greek
t. Turkish
u. Persian
v. Urdu
w. Hindi
x. Bengali
y. Punjabi
z. Other

a. Spanish
b. Italian
c. German
d. French
e. Dutch
f. Portuguese
g. Russian
h. Polish
i. Czech
j. Slovak
k. Hungarian
l. Romanian
m. Bulgarian
n. Serbian
o. Croatian
p. Slovenian
q. Macedonian
r. Albanian
s. Greek
t. Turkish
u. Persian
v. Urdu
w. Hindi
x. Bengali
y. Punjabi
z. Other

a. Spanish
b. Italian
c. German
d. French
e. Dutch
f. Portuguese
g. Russian
h. Polish
i. Czech
j. Slovak
k. Hungarian
l. Romanian
m. Bulgarian
n. Serbian
o. Croatian
p. Slovenian
q. Macedonian
r. Albanian
s. Greek
t. Turkish
u. Persian
v. Urdu
w. Hindi
x. Bengali
y. Punjabi
z. Other

a. Spanish
b. Italian
c. German
d. French
e. Dutch
f. Portuguese
g. Russian
h. Polish
i. Czech
j. Slovak
k. Hungarian
l. Romanian
m. Bulgarian
n. Serbian
o. Croatian
p. Slovenian
q. Macedonian
r. Albanian
s. Greek
t. Turkish
u. Persian
v. Urdu
w. Hindi
x. Bengali
y. Punjabi
z. Other

a. Spanish
b. Italian
c. German
d. French
e. Dutch
f. Portuguese
g. Russian
h. Polish
i. Czech
j. Slovak
k. Hungarian
l. Romanian
m. Bulgarian
n. Serbian
o. Croatian
p. Slovenian
q. Macedonian
r. Albanian
s. Greek
t. Turkish
u. Persian
v. Urdu
w. Hindi
x. Bengali
y. Punjabi
z. Other

8. The following information is submitted for the purpose of showing

I will promptly supply any additional information that may be desired and will expedite my help in obtaining assignment in this type of work.

EDWARD L. HANSEN O-3702677
1st Lt. A. C.,

OSS FORM 4001a

Date 28 May 45

To: Mrs. O'Donnell

The original of this has been
sent to Naval Command for action.

P.F.P.
P.F.P. ^{ev}

Office of the Secretariat

(5130)

OSS Form 4001
(Rev. 7/27/44)

SECRETARIAT - ROUTE SLIP

DATE

TO	NAME	INITIALS
	O. C. Doering, Jr.	
	J. J. Monigan	
	E. J. Putzell, Jr.	
	R. Thrum	
	D. C. Lee	
	J. W. Anchinclase	
	W. B. Kantack	
	W. H. Miley	
	P. P. Pugliese	
	A. W. Salloway	
	J. B. Donovan	
	A. W. Amuth, Jr.	
	A. L. Dart	
	H. H. Hamilton	
	L. R. Houston	
	C. S. McClelland	
	J. L. McDonnell	
	J. R. Schoemer, Jr.	
	Secretariat Files	
	Director's Files	
	O. G. C. Files	

Gen D has no
objection

How do we get this
in channels?

ns

(29698)

HQ & HQ DETACHMENT
 Office of Strategic Services
 European Theater of Operations
 APO-887 U.S. ARMY

5 May 1946

Major General William J. Donovan
 Director
 Office of Strategic Services
 Washington, D. C.

Dear Sir:

Permission has been granted me to send this letter to you by pouch inasmuch as it is a business matter, although one of a personal nature.

Shortly after you were at First Army, I returned to this Headquarters and reported to Colonel Gamble as ordered in process of clarifying my position. Colonel Gamble said you had left word that I could either transfer to First Army or return to the States for re-assignment.

Temporarily the matter is settled by my assignment to R&A where the work of Political Intelligence can be carried on.

In the course of my work here, I made contact with the local office of the War Shipping Administration. It has since developed that they are badly in need of experienced shipping men and that I am well qualified to handle a particular job for them in this Theater. It is my strong personal desire to join the WSA and get into their work. They are, through Washington, initiating a request that I be released from the Marine Corps for duty with WSA.

I should greatly appreciate it if you would approve such a move and agree to my release if the Marine Corps is prepared to release me, also. If the Marine Corps refuses, I, of course, am more than willing to carry on as now planned. I do feel, however, that with my shipping background and nine years experience, I can at this stage be of the greatest value to the war effort if I work for WSA.

I have talked this over with the Branch Chief of R&A, Chandler Morse, and he has informed Colonel Palmer that he will release me when the time comes unless something unforeseen develops.

Also, the Naval Personnel Officer here, Lt. Commander Phelps, agrees that this matter should be handled through Washington.

Respectfully,

/s/ John Hamilton
 John Hamilton,
 Capt, USMCR

NAVAL COMMAND
OFFICE OF STRATEGIC SERVICES
 WASHINGTON, D.C.

14. 547
Hamilton
original delivered
by hand naval
command 1/16
EST

In reply, please
 indicate the file

15 January 1945

From: Commanding Officer, Naval Command
To: Commandant of the Marine Corps
Via: Deputy Director, Office of Strategic Services
Subject: 1st Lieut. John Hamilton, USMC, Recommendation
 for Spot Promotion of.

1. Lieutenant Hamilton was commissioned 2nd Lieutenant on 23 April 1943 and promoted to 1st Lieutenant by Marine Corps Letter of Instruction 6 October 1944. Lieut. Hamilton has been on duty with the Office of Strategic Services in an overseas assignment for a period in excess of a year. During this time he performed his duties in an outstanding manner, having spent ten months with resistance forces in the Balkans, where he operated most successfully inside enemy lines. Contacts which he made in the Balkans will now make it possible for him to meet and deal with certain leaders and representatives heretofore inaccessible to this organization.

2. Lieutenant Hamilton is leaving within two weeks on an important mission to make contact with skilled representatives of a friendly European country. He will be better able to perform this mission if he carries the rank of Captain, as his duties require that he enjoy the confidence of high ranking leaders of the skilled forces.

3. As commonly demonstrated in Greece, Italy and Belgium, one of the most serious problems facing the Allies in Europe today is that of dealing with the Resistance or Liberation movements of various countries. Secret information obtained in the Balkan Theater reveals that underground factions of various countries are in continual communication with one another and that they are the source of vital information regarding other European and Latin American countries.

SECRET

In view of the fact that Lieutenant Hamilton is the only available officer in the Office of Strategic Services to handle this assignment and that he possesses the requisite stature and ability to bear the rank of Captain, it is requested that Lieutenant Hamilton be granted a spot promotion to the rank of Captain.

Junius B. Morgan,
Captain, USNR,
Acting.

SECRET

SECRET

16,047

Subj: 1st Lt. from Naval Command,
dated 15 January 1945

15 January 1945

From: Assistant Director of Strategic Services
For: Commandant of the Marine Corps

Subj: 1st Lt. John Hamilton, USMC, Recommendation
for Spot Promotion of.

1. Forwarded.

2. The Assistant Director heartily concurs in the recommendation for spot promotion to Captain for Lieutenant Hamilton, as he has rendered invaluable service to this agency in the past, to the credit of himself and the Marine Corps, and his proposed mission is one of importance, not only to this agency but to the War effort in general.

Charles S. Chaston
Assistant Director

SECRET

SECRET

10 January 1949

SAC, Washington, John V. (101)

MEMORANDUM FOR THE DIRECTOR, Central Intelligence Agency
 FROM: Assistant Chief of Staff, G-1, War

1. Reference is made to my memorandum to Assistant Chief of Staff, G-1, War, subject as above, dated 18 Dec. 1948.

2. Should the request contained in the above memorandum not be approved, it is further requested that subject outlined man remain in his present assignment with this Agency since his services can be fully utilized here.

3. This Agency has agreed to request subject outlined man's transfer to the RSO on the basis of a request by the Assistant Secretary of State, Mr. E. MacLennan. In view of the importance of the State Department subject for which subject outlined man's services were needed, this Agency agreed to assist the State Department as long as such action did not seriously interfere with internal operations.

CHARLES E. HUNTER
 Acting Director

SECRET

SECRET157,972
Halderman, John W.

SOL-Halderman, John W. (221)

18 December 1946

SUBJECT: Transfer to Enlisted Reserve Corps.
THROUGH: Secretary, Joint U.S. Chiefs of Staff
TO : Assistant Chief of Staff, G-1, WDAG

1. It is requested that Corporal John W. Halderman, AGP 55 030 070, be transferred to the Enlisted Reserve Corps of the Army of the United States.

2. Corporal Halderman is presently assigned to the Office of Strategic Services and has been requested for a special assignment with the Department of State.

3. The Department of State desires to use Corporal Halderman as a Legal Consultant on International Security and Organization in the preparation for the projected United Nations Conference on General International Organization.

4. Corporal Halderman participated in the initial research and formulation phases within the Department of State relating to the General International Organization. He is regarded by them as being one of the ablest young international lawyers in the country and he is urgently needed by them for this work.

5. Corporal Halderman is now 37 years of age, having been born on 5 December 1907 in Astoria, Oregon. He has served in the Army of the United States since 1 June 1943.

6. In view of the importance of this project and the particular qualifications which Corporal Halderman possesses, it is felt that his use by the Department of State would be of great benefit to the country.

CHARLES S. CHENSTON
 Assistant Director

Inclosure
 (1)

SECRET

15,972
Holdeman

WAR DEPARTMENT
War Department General Staff
Military Intelligence Division G-2
Washington

9 December 1944

Brigadier General John Magruder,
Deputy Director, Office of Strategic Services
20th and E Sts., N.W.
Washington, D.C.

Dear General Magruder:

The attached letter from Mr. C. Howland Shaw to Mr. Bundy is forwarded to your office for appropriate action, as it pertains to an individual presently detailed to OSS. Mr. Shaw is being notified of this action.

Sincerely,

CLAYTON BISHOP,
Major General
A.C. of S., G-2

John Weckerling
Brigadier General,
Deputy A.C. of S., G-2

Enclosure

This is a true copy:

— Lt. Col. —

DEPARTMENT OF STATE

Washington

15,972
Haldeman

To Mr. Murphy

Dec. 7, 1944

My dear Mr. Murphy:

The Department of State would appreciate any assistance which you might be in a position to extend in securing the release of Corporal John V. Haldeman for emergency service in the Department of State, or in having him placed on an unpaid leave status for this purpose. Corporal Haldeman, I understand, is now detailed to the Civil Affairs Division of the Office of Strategic Services. He was thirty-seven years of age on December 8, 1944.

The emergency service for which Corporal Haldeman's assignment is desired involves participation, as Legal Specialist on International Security and Organization, in the preparations for the projected United Nations conference on general international organization, including matters relating to the judicial organization, and in activities involved in the establishment of the international organization of which time an international agreement in this regard may be reached. As you are aware, this is a field of work which is of paramount importance.

Corporal Haldeman participated in the initial research and formulation of plans within the Department relating to the General International Organization under previous assignment in the Division of Special Research and in the Division of Political Studies, which the Division of International Security and Organization superseded. He is regarded as one of the outstanding young international lawyers in this country, and excels in the close analysis of difficult problems and in drafting and exact drafting. His excellent academic training included specialization in constitutional law and American political institutions. He served as graduate assistant to Professor Edward S. Corwin, practiced law in the State of Oregon for five years, and served as Assistant to the Legal Advisor of the Department of State for five years, during which

The Honorable

Harvey H. Hays,

Special Assistant to the
Secretary of War,
War Department

- 3 -

time he was engaged in the preparation of the Digest of International Law, since published by the Government Printing Office, and contributed a number of chapters directly related to the field of international organization. In view of the character of his general training and, particularly, of his previous ability and experience in departmental work, he was selected for assignment in the Division of Special Research in August 1942 and remained in this general field of work until his induction into the military service on June 3, 1943. It has been found impossible to duplicate his experience and expert ability and, particularly at this time, it would be of material assistance to the Division of International Security and Organization if Corporal Haldeman's services could be obtained at this important period.

Your early consideration of this request will be greatly appreciated.

Sincerely yours,

For Mr. Secretary of State:

S. Rowland Shaw
Assistant Secretary

This is a True Copy:

/s/ [Signature]

lt. Col.

Hallam Nathan 1971

SECRET

SECRET

MEMORANDUM TO JAMES HALLAM, JR., DIRECTOR, USAF
SUBJECT: [illegible]

1. You are hereby authorized and directed to proceed to the destination indicated in your military orders, where you will report to the Strategic Services Officer, for that Theatre of Operations. You are, therefore, to act under the instructions of the Strategic Services Officer for such Theatre.

WILLIAM F. BUCKLEY
Director

APPROVED:

APPROVED:

James H. Hallam, Jr.
Security Officer, USAF

J. E. BORTNER
Deputy Director, USAF

James John Wilson, USAF
Strategic Services Officer

SECRET

MEMORANDA relating to Internment of
Enemy Aliens

SUBJECT: Mr. & Mrs. K. von
Kleczkowski

OFFICE OF GENERAL COUNSEL

MEMORANDA relating to Internment of
Enemy Aliens

SUBJECT: Mr. & Mrs. K. von
Kleezkowski

OFFICE OF GENERAL COUNSEL

INDEX

1. Memorandum 9/13/44 General Counsel to Director re "Mr. and Mrs. K. von Kleozkowski".
2. Memorandum 8/29/44 A. Dart to General Counsel re "Mr. & Mrs. K."
3. Memorandum 8/9/44 A. Dart to Files re "Procedure for Internment of Enemy Aliens".
4. Memorandum 7/29/44 Major Pfaff to The. Donovan re "Legal Status of the von Kleozkowski's".

SECRET

OSS Form 400 *fo*

DATE **14 October 1944**

TO: **DIRECTOR**

For your information.

✓

JB
J. B. D.

Office of the General Counsel

(42934)

DeL

Handwritten: 13.257

Handwritten: 1. Agents
in Japan
14 October 1946

TO: Lt. Col. R. A. Delf
Assistant Chief, I-2 Branch

FROM: Jerald B. Donovan
General Counsel

SUBJECT: Mr. and Mrs. E. Ter Heidekamp

1. At the request of Mr. Van Duzen, I talked today concerning Mr. and Mrs. E. Ter Heidekamp with Samuel D. Duffin, Chief, Registration Section of the Alien Enemy Control Unit of the Department of Justice. Mr. Duffin stated that he believes that security will not permit the release of these individuals from internment. I stated that I had been advised by those within the agency responsible for the matter that it would not be in the interest of the Government at this time to release the subjects. I further stated that as soon as security permits, we would advise the Department of Justice.

2. Mr. Duffin stated that no hearing is contemplated at this time but that such one is to be held as soon as advised in advance and requested to make available to the Department of Justice all information in our possession which may affect the status of the subjects.

J. B. D.

cc: Director
Col. Duffin - Mr. Sullivan
Mr. Van Duzen

Handwritten: 13.257

Handwritten: 13.257

1000 miles yr, 1000 km 13 85 7

OFFICE OF STRATEGIC SERVICES
WASHINGTON, D. C.

SECRET

22 September 1944

MEMORANDUM

10:

1. Mr. Sulloway *also*
2. Colonel Doering *concur*
3. General Donovan *also*

FROM:

General Counsel

SUBJECT:

Mr. and Mrs. K. von Kleezkowski

The attached has been reviewed by X-2,
which (per Major Pfaff) has concurred in its conclusions.

JAMES E. DONOVAN

SECRET

To: ENSIGN DONOVAN

Your summary in the prepared report in the above matter I have read and approve.

You can take action accordingly.

W.J.D.

11 Oct. 44

~~SECRET~~

Director's Office

(3100)

050 Form 41A

Date _____

To: _____

General

*Jim Donovan acts
if you approve
the recommendation
contained in his
2 page summary*

Office of the Executive Officer

7/10

(30000)

OSS Form 4001b

DATE 10 Oct. 1944

TO: LT. THRON

Please advise whether the Director
took any action with respect to the
attached memo.

JBD
J. B. D.

Office of the General Counsel

(42934)

INFORMATION

ROUTING SHEET

SECRET

Subject _____

Originator _____

Date _____

Addressee _____

Date Rec'd _____

To	Room No.	Date		Initials	Comments
		Rec'd	Fwd'd		Indicate action desired or taken
Col. Doering					For information -
M O 'D					<i>[Signature]</i>
Encl. - [unclear]					

General Counsel

Executive Office

Mr. and Mrs. K. von Klitzkowski

Handwritten:
 13.6.57
 K. Klitzkowski
 K. a. y. u. t.
 11 October 1944
 K. German

The Director has instructed me to inform you that he has read and approved your memorandum of 13 September to the Director summarizing the attached report on the above subject. He requests you take action accordingly.

E. J. Putzeli Jr.
 Lieutenant (j.g.), USNR
 Assistant Executive Officer

Attachment

General Counsel

Executive Office

Mr. and Mrs. K. von Kluge

12 October 1944

The Director has instructed me to inform you that he has read and approved your memorandum of 13 September to the Director summarizing the attached report on the above subject. He requests you take action accordingly.

D. J. Futsell Jr.
Lieutenant (J.G.), USNR
Assistant Executive Officer

Attachment

13.5
Handwritten notes

OFFICE OF STRATEGIC SERVICES
WASHINGTON, D. C.

135
SECRET

13 September 1944

MEMORANDUM

TO: Director

FROM: General Counsel

SUBJECT: Mr. and Mrs. K. von Kleczkowski

U-26
(7)

1. The above subjects are former German agents who surrendered to the United Nations, were brought to this country and now are interned in Louisiana.

2. Upon the request of X-2, we have reviewed this file and wish to advise that:

a) No formal action should be taken by OSS at this time;

b) Through our liaison with the Department of Justice, we should informally discuss the entire matter with proper authorities within the Alien Enemy Control Unit, offering to cooperate in all respects and to furnish any information we possess which may be of assistance to the Alien Enemy Board in deciding the cases. I would suggest that this be done by one man from X-2 and one man from this Office.

3. For your information, we have concluded as a preliminary matter that upon the evidence available within this agency

a) Mr. and Mrs. K. at present are being validly detained and have no just cause of complaint as to treatment;

b) They are legally internable for the duration as enemy aliens, Mr. K. as a "denizen" or "citizen" of Germany and Mrs. K. as a "native" of Rumania;

SECRET

SECRET

Director

- 2 -

13 September 1944

c) The Attorney General may determine, after examination of the facts, to release the prisoners to the War Department for trial as enemy agents under military law.

4. Because of the importance of the questions presented and the probability of their recurrence, we have prepared a comprehensive memorandum on the problem, for future reference. All supporting files have been returned to X-2 Branch.

James B. Donovan
James B. Donovan

SECRET

SECRET

- 2 -

Van Beuron), that a request be made to the Attorney General for an opinion as to the legal status of Dr. and Mrs. von Kleonkowski.

3. As you are aware, any such request to the Attorney General will of necessity have to include a brief history of the von Kleonkowski's defection, their transportation to Cairo and thence to the United States, where they have been interned by the Department of Justice at Algiers, La.

4. We would appreciate reviewing any proposed letter to the Attorney General prior to its transmittal, for the purpose of checking the history of the case. We also feel that this matter should be expedited in view of the continuous demands being made by the von Kleonkowski's for release.

Rogers A. Hoff
R.A.P.

Enclosures

SECRET

SECRET**OFFICE OF STRATEGIC SERVICES****WASHINGTON, D. C.****20 July 1944****SECRETARIAT**

1944 JUL 29 PM 6 26

MEMORANDUM**OSS**

- TO:** Ensign James B. Donovan
General Counsel, OSS
- FROM:** Roger A. Pfaff, Major, Inf.
Acting Chief, X-2 Branch
- SUBJECT:** Legal status of the von Kleczkowski's
1. We are transmitting herewith the following papers:
 - (a) Letter of July 20, 1944, from Dr. von Kleczkowski to Mr. Weston Howland.
 - (b) Letter from Mr. N. D. Collier, Acting Assistant Commissioner for Alien Control, U. S. Department of Justice, Philadelphia, addressed to General Donovan, dated July 8, 1944, to which are attached letters of June 18 and 19 from Dr. von Kleczkowski to General Donovan and OSS, together with copies of memoranda of June 13 and 24, 1944, by C.O. Courtney, Chief Patrol Inspector, New Orleans, La.
 - (c) Copy of letter of June 7, 1944, from Colonel Buxton to Maj. General Deane; Document GX-215; Memorandum from Mr. Shepardon to General Donovan, dated 13 March, 1944; and Major McDonough's memorandum of 20 February 1944 to General Donovan. (Note: 2 documents in this file relate to Wilhelm Hamburger, and these are also attached. All of these papers were sent to us by Major Lee of the Secretariat, who may wish that they be kept together. We suggest that you take up this point with him.)

2. As you will note from the attached correspondence and memoranda, there arises a question as to the legal status of Dr. and Mrs. von Kleczkowski. In order that OSS may have a definite and binding ruling in this matter, it is our suggestion, in which the Security Office concurs (through Mr.

SECRET

SECRET

13857

OFFICE OF STRATEGIC SERVICES
WASHINGTON, D. C.

29 July 1944

SECRETARIAT

1944 JUL 29 6/8 PM 6 26

MEMORANDUM

OSS

TO: Ensign James B. Donovan
General Counsel, OSS

FROM: Roger A. Pfaff, Major, Inf.
Acting Chief, X-2 Branch

SUBJECT: Legal status of the von Kleczkowski's

1. We are transmitting herewith the following papers:

- (a) Letter of July 20, 1944, from Dr. von Kleczkowski to Mr. Weston Howland.
- (b) Letter from Mr. N. D. Collaer, Acting Assistant Commissioner for Alien Control, U. S. Department of Justice, Philadelphia, addressed to General Donovan, dated July 8, 1944, to which are attached letters of June 12 and 19 from Dr. von Kleczkowski to General Donovan and OSS, together with copies of memoranda of June 13 and 24, 1944, by C.C. Courtney, Chief Patrol Inspector, New Orleans, La.
- (c) Copy of letter of June 7, 1944, from Colonel Buxton to Maj. General Deane; Document GX-215; Memorandum from Mr. Shepardson to General Donovan, dated 13 March, 1944; and Major McDonough's memorandum of 29 February 1944 to General Donovan. (Note: 2 documents in this file relate to Wilhelm Hamburger, and these are also attached. All of these papers were sent to us by Major Lee of the Secretariat, who may wish that they be kept together. We suggest that you take up this point with him.)

2. As you will note from the attached correspondence and memoranda, there arises a question as to the legal status of Dr. and Mrs. von Kleczkowski. In order that OSS may have a definite and binding ruling in this matter, it is our suggestion, in which the Security Office concurs (through Mr.

SECRET

SECRET

- 2 -

Van Beuren), that a request be made to the Attorney General for an opinion as to the legal status of Dr. and Mrs. von Kleozkowski.

3. As you are aware, any such request to the Attorney General will of necessity have to include a brief history of the von Kleozkowski's defection, their transportation to Cairo and thence to the United States, where they have been interned by the Department of Justice at Algiers, La.

4. We would appreciate reviewing any proposed letter to the Attorney General prior to its transmittal, for the purpose of checking the history of the case. We also feel that this matter should be expedited in view of the continuous demands being made by the von Kleozkowski's for release.

Ragna A. Hoff
R.A.P.

Enclosures

SECRET

OFFICE OF STRATEGIC SERVICES
WASHINGTON, D. C.1785
SECRET

29 August 1944

MEMORANDUM

TO: General Counsel
FROM: Albert L. Dart
SUBJECT: Mr. and Mrs. K

I
The Facts

Mr. and Mrs. K, the aliens involved in the instant case, claim Austrian nationality. They were both born Austro-Hungarian citizens, Mr. K at Laibach (Ljubljana), in that part of Austria-Hungary which was later assigned to Yugoslavia, Mrs. K at Cernauti (Czernowitz), now part of Romania. Mr. K lived in Austria after the World War, joining the Austrian Nazi party. He met Mrs. K in Romania, while representing Nazi-connected newspapers there, between 1935 and 1937. He appears to have been expelled from Romania in 1937, and to have married Mrs. K in Vienna in that year. He claims to have left the Nazi party because of Mrs. K's partly "non-Aryan" ancestry. There is some doubt, however, both as to the validity of the marriage and as to Mrs. K's "non-Aryan" blood. Both remained in Austria after the Anschluss, eventually establishing residence in Munich, Germany. On the outbreak of the War they appear to have become German secret agents. They traveled under a German passport, dated 1940, making several return trips to Germany. Early in 1944, they contacted Allied officials.

SECRET

- 2 -

SECRET

in Istanbul, Turkey, and offered to come over to the Allied side.

According to their own story, this action was motivated by their patriotism as loyal Austrians, after the affirmation of Austria's independence by the Declaration of Moscow of November 2, 1943. They claim to have given valuable information to the Allies, as a result of which German Ambassador Von Papen twice demanded their surrender from the Turks. With the assistance of the British and American authorities, they left Istanbul for Cairo, leaving their luggage and personal funds at the British Embassy in Istanbul. This luggage, consisting of three barracks bags, two trunks, and one hat-box was never sent to them, as the British apparently found reason to retain it. A proceeding at Cairo is supposed, according to them, to have established the "fundamental fact" that they had to flee Turkey in order to save their lives. Other data available here, however, indicates that further interrogation raised a suspicion in Cairo that they might be Nazi "plants".

The OSS and the Department of State arranged to have Mr. and Mrs. K transported to Washington. Prior to the interrogation in Cairo, Mr. and Mrs. K state, they were under the impression that they were to be used in Washington for psychological warfare; they hence were greatly perturbed when, on their arrival in the United States on 22 April, they were detained at Ellis Island. While they were at Ellis Island, an Immigration official jokingly informed Mrs. K that a Nazi prisoner had inquired whether she was a prostitute.

SECRET

- 3 -

SECRET

Mr. and Mrs. K were subsequently transferred to the detention station at Algiers, La., where they are at present. They were put on latrine duty, which on at least one occasion nauseated Mrs. K. They have made themselves general problems at Algiers, claiming the protection of the Army, and writing numerous letters to General Donovan and to OSS. On one occasion they threatened to commit suicide, causing extra precautions of surveillance to be taken. They constantly protest the fact that they are being held with known Nazis as enemy aliens. They insist they had been informed that their status was "transitional" and that they were being held in "protective custody".

Personal funds, amounting to \$5,469.66, were transmitted to Mr. and Mrs. K in the form of a check, drawn by an OSS Special Funds Agent-Cashier on the Riggs National Bank in Washington. The U. S. Marshal in New Orleans refused to cash the check on the grounds that it was not a Government check. Arrangements were made with a New Orleans bank to accept the check for collection and turn it over to the U. S. Marshal for deposit. Mr. and Mrs. K complained bitterly over the delay; the money, however, was paid. Mr. and Mrs. K are now afraid that it will be frozen.

Mr. and Mrs. K were interned as enemy aliens under an order of the Attorney General dated 7 June 1944. They finally filled out the internee report on 19 July, and have received notice of an Alien Enemy Hearing under the regular procedure adopted by the Department of Justice. They express confidence

SECRET

- 4 -

SECRET

that this hearing will demonstrate their loyalty to the Allied cause and result in their release. The hearing apparently has not yet taken place.

The files of OSS contain confessions, signed 20 March 1944 by Mr. K, and 24 March 1944 by Mrs. K, to the effect that all their protestations of Austrian patriotism were false, and made for the sole purpose of saving their skins.

The American interrogating officer at Cairo did not believe that Mr. and Mrs. K could be convicted as "plants" on the basis of the evidence against them, though his personal opinion inclined in that direction. He recommended that they be kept in custody, "if only on an internment basis", and that the large sum of money in their possession be confiscated after a finding that it had been obtained through espionage activities, if confiscation were consistent with an internment status.

Mr. and Mrs. K were informed by the Swiss Consul that the Geneva Convention of July 27, 1929, concerning prisoners of war (47 Stat. 2021, Treaty Series No. 846; Malloy, Treaties v. IV p. 5284) applied to them. Mr. and Mrs. K, however, refused to discuss the matter with the Swiss Consul on the ground that they were not being held as enemies.

SECRET

SECRET

- 5 -

II The Law

The internment of these aliens raises questions of their enemy alien status, of the constitutionality of the legislative enactment by which they were interned as aliens, of the treatment to which they are entitled, either as civilian enemy internees or as prisoners of war, and of the possibility that they might properly be detainable under military rather than civil law.

Obviously the contention which the internees are most likely to maintain is that as Austrian nationals they are friendly aliens, and as such entitled to the treatment granted to friendly aliens within the limits of the United States. In the courts of this country, friendly aliens admitted to the U. S. are entitled, in time of peace or of war, to claim the same rights and protection granted to citizens. 8 U.S.C.A. 41 (Act of May 31, 1870) 16 Stat. 144. See also Taylor v. Carpenter, 3 Story 488, Fed. Cas. No. 13,788 (Mass. 1844); Coyler v. Skeffington, 268 Fed. 17 (Mass. 1920); Turner v. Williams, 194 U. S. 279 (1904); Yick Wo v. Hopkins, 18 U. S. 356 (1886); 48 Fed. Supp. 40 (1943). However, alien enemies in time of war do not enjoy the same treatment. It must be understood that even in peace-time the admission and continued presence of aliens is a matter of grace, and the power of Congress and of the President to deal with aliens in time of war is almost plenary. Minoru Yasui v. U. S., 320 U. S. 115 (1943), certified from U.S. v. Yasui, 48 Fed. Supp. 40 (Ore. 1942). Enemy aliens are

SECRET

- 6 -

SECRET

subject to internment under the Enemy Alien Act of July 6, 1798, 1 Stat. 577, R. S. Section 4067, as amended April 16, 1918, 40 Stat. 531, 1918; 50 U. S. C. Sec. 21-24 (1940). The amendment of 1918 made the Act applicable to females as well as to males. The text of 50 U. S. C., Sec. 21, which is the legislative authority under which the internment of enemy aliens is justified, reads as follows:

"Sec. 21. Restraint, regulation, and removal.

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety."

50 U. S. C., Sec. 22, goes on to provide that an enemy alien not chargeable with actual hostility shall be allowed a reasonable time, in the absence of treaty, to settle his affairs and leave the country, or if there is a treaty, such time as the treaty

SECRET

SECRET

- 7 -

stipulates. Section 23 further provides that the United States courts having criminal jurisdiction are authorized to imprison enemy aliens after a regular trial; while Section 24 requires the United States Marshal of the district in which an enemy alien is apprehended, or his deputy, to execute the presidential warrant or court order directing the removal of the alien from United States territory.

The Enemy Alien Act was held constitutional in the case of DeLacey v. U. S., 249 Fed. 625 (C.C.A. 9th Cal., 1918) on the ground that even in time of peace the presence of aliens is a matter not of right but of favor, and that although friendly aliens domiciled temporarily within the United States are accorded equal protection of the law and due process of law, under common-law rule (not changed by the Constitution) enemy aliens have no rights or privileges, except by special favor, during time of war. This common-law rule has been stated in Brown v. U. S., 8 Cranch 110, p. 121 (1814) by Chief Justice Marshall, as follows:

"That war gives to the sovereign the full right to take the persons and confiscate the property of the enemy, wherever found, is conceded; the mitigation of this rigid rule, which the humane and wise policy of the sovereign dictates, will more or less affect the exercise of this right, but cannot impair the right itself."

See also Halpern v. Commanding Officer, 248 Fed. 1003 (1918); 1 Bl. Comm. 372.

During the World War, President Wilson, purporting to act under the authority of the Enemy Alien Act of 1798, issued a proclamation on 6 April 1917 (40 Stat. 1650, 1651) which provided

SECRET

SECRET

- 8 -

that alien enemies "so long as they shall conduct themselves in accordance with law * * * * shall be understood to be in the peaceful pursuit of their lives and occupations, and to be accorded the consideration due all peaceful and law abiding persons except insofar as such restrictions may be necessary for their own protection and for the safety of the United States; and to such enemy aliens as conduct themselves in law, all citizens are enjoined to preserve the peace and to treat them with all such friendliness as may be compatible with loyalty and allegiance to the United States." The proclamation, however, further provided that "all enemy aliens who fail to conduct themselves as so enjoined, in addition to other penalties by law, shall be liable to restraint, or to give security or to remove and depart from the United States."

Following President Wilson's precedent, President Roosevelt, on 8 December 1941, issued Proclamation No. 2525, 6 Fed. Reg. 6321, providing that "alien enemies deemed dangerous to the public peace or safety of the United States by the Attorney General or the Secretary of War, as the case may be, are subject to summary apprehension." The Attorney General is given jurisdiction to intern aliens within the United States, and the proclamation further provides that:

"Enemy aliens arrested shall be subject to confinement in such place of detention as may be directed by the officers responsible for the execution of these regulations, and the arrest,

SECRET

SECRET

- 9 -

detention and internment of enemy aliens in each case, or in such other places of detention and internment of enemy aliens in each case, or in such other places of detention as may be directed by the Attorney General, with respect to the Continental United States * * * and there confined until he shall have such permit as the Attorney General shall prescribe."

This proclamation, originally applicable to Japanese, was extended to Germans on 9 December 1941 by Proclamation No. 2523 (6 Fed. Reg. 6323); and on 17 July 1942, Proclamation 2563 (7 Fed. Reg. 5535) was issued concerning natives, citizens, denizens, or subjects of Hungary, Romania, or Bulgaria, over fourteen years of age. A proclamation was also issued, concerning Italian nationals, which has no bearing on the instant case.

The language of President Roosevelt's proclamations differs significantly from that of President Wilson. With regard to German and Japanese nationals, there is absolutely nothing similar to Wilson's proclamation to United States citizens to conduct themselves with friendliness so long as these aliens keep the peace. There is no provision that they shall be undisturbed in the peaceful pursuit of their occupations; there is merely the unqualified proviso that they are liable to restraint or to give security, without reference to their behavior. At least one Federal Judge, Boxdale, J., in Bornheimer v. Vurpillot, 42 Fed. Supp. 830, p. 832 (E. D. P. D. 1942), a decision which

SECRET

SECRET

- 10 -

will be subsequently adverted to in another connection, Infra., p. 28, has held that this indicates a deliberate intent of our Government to impose greater restrictions upon subjects of enemy countries resident here than were imposed in 1917. The proclamation concerning Hungarians, Roumanians and Bulgarians is, however, more lenient, reading as follows:

"Any native citizen, denizen or subject of Hungary, Romania, or Bulgaria, of the age of fourteen years and upward, and not actually naturalized, who, in the judgment of the Attorney General or the Secretary of War, as the case may be, is aiding, or about to aid, the enemy, or who may be at large to the danger of the public peace or safety, or who, in the judgment of the Attorney General or the Secretary of War, as the case may be, is violating, or is about to violate any regulation adopted and promulgated by the President, or any criminal law of the United States, or of the States or territories thereof, shall be subject to summary arrest as an alien enemy and to confinement in a place of detention, as may be directed by the President or by any executive officer hereafter designated by the President of the United States."

The text of the proclamation concerning Japanese and later made applicable to Germans reads as follows:

"Alien enemies deemed dangerous to the public peace or safety of the United States by the Attorney General or the Secretary of War, as the case may be, are subject to summary apprehension. Such apprehension shall be made in the continental United States, Alaska, Puerto Rico, and the Virgin Islands by such duly authorized officer of the Department of Justice as the Attorney General may determine. In the Canal Zone, the Hawaiian Islands and the Philippine Islands, such arrests shall

SECRET

SECRET

- 11 -

be made by the Military Commanders in each such territory by authority of the respective Military Governors thereof, and if there be no Military Governor, then by authority of the Secretary of War. Alien enemies arrested shall be subject to confinement in such place of detention as may be directed by the officer responsible for the execution of these regulations, and for the arrest, detention and internment of alien enemies in each case, or in such places of detention as may be directed from time to time by the Attorney General, with respect to continental United States, Alaska, Puerto Rico and the Virgin Islands and by the Secretary of War with respect to the Canal Zone, the Hawaiian Islands and the Philippine Islands, and then confined until he shall have received such permit as the Attorney General or the Secretary of War with respect to the Canal Zone, the Hawaiian Islands and the Philippine Islands shall prescribe."

The Federal courts have had occasion to construe both the term "denizen" and the term "native" as used in the Alien Enemy Act. The meaning of "denizen" was considered in U. S. ex rel. Zduniec v. Uhl, 137 Fed. (2) 858 (CCA 2d NY 1943), rev. 46 Fed. Suppl. 688 (1942) rearg. den. 47 Fed. Suppl. 520 (1942). That case involved an application for a writ of habeas corpus by a Yugoslav citizen, whose situation was in some respects similar to Mr. K's. He lived in Austria from 1922 to 1939, entered the United States in 1939 on a "Stateless" passport issued by Germany, and was interned as an enemy alien. His voluntary entry into this country, and the lack of evidence concerning subversive activity, are the chief factual distinctions from Mr. K's case. It was first held by the lower court that under these facts the alien was a "denizen" of Germany, as he had continued to live in Austria after it "had become a German State". Bright, J.,

SECRET

SECRET

- 12 -

called attention to the fact that "denizen" as understood at the time of the passage of the Act of 1798 meant an alien who could own real estate and earn his living in the country, which right the alien possessed under Austrian and later German law. A motion for reargument on the ground that on 29 July 1942 the Secretary of State declared that the United States had never recognized the legality of the Anschluss was denied on the ground that the alien had nevertheless enjoyed the privileges of a "denizen" of Germany. On appeal from the order denying the writ, the case was reversed and remanded for further evidence concerning the privileges of the alien under German law. Swan, J., refused to extend the definition of "denizen" beyond that given by Blackstone (1 Bl. Comm. 37), implying a limited allegiance, and declared, at 137 Fed. (2), 858, 867, that the status required "some relation to the enemy nation which is not lost by the alien's presence within the United States. Merely former residence by him in the enemy country cannot suffice, nor can former domicile". The case of Ex parte Gilroy, 257 Fed. 110 (D. C. 1919) in which Mayer, J., held that an alien was not a denizen of Germany, if such there can be, was cited with approval, Swan, J., saying, at p. 867, that Judge Mayer's doubt that there could be a denizen of Germany was well founded.

On the authority of the Zdumic case, it seems difficult to believe that any American court would refuse to hold that

Mr. X was a denizen of Germany. By travelling under a German

passport and by his general conduct, he certainly maintained

SECRET

- 13 -

SECRET

some type of allegiance, "some relation" to Germany which is not lost by the fact of his physical presence in the United States. A question can even arise as to whether Mr. K has in fact ever abandoned the domicile he established in Germany. It is conceivable, of course, that the dictum of Mayer, J., in Ex parte Gilroy, supra, as to the doubtful possibility of German denizen-ship might be followed. Aside from the fact that such a decision would have the effect of rendering nugatory the word "denizen" as used in the Alien Enemy Act and the Presidential proclamations thereunder, such a holding would not preclude a decision that Mr. K had made himself an alien enemy on other grounds.

The term "native" as used in the Alien Enemy Act was thus defined by Clark, J., in U. S. ex rel d'Esquivia v. Uhl, 131 Fed. (2) 903, 905 (S.D.N.Y. 1943): "'Natives' must include others besides citizens or subjects of the hostile nation or government. In its ordinary and natural meaning the word must include all those who by means of ties of nativity or allegiance are likely to favor the enemy nation. In its ordinary and natural meaning the word refers to a person's place of birth. Hence a person remains a native of the country of his birth, although he has moved away and become a citizen of another nation and government." Judge Clark further said (ibid) that "unless bizarre results are to be accepted, the term 'native of a hostile nation' must include one born of native-citizen parents at a place which has now been recognized by our government as a component part of a nation with which we are at war". Authorities cited were in re Pfeiffer, 254 Fed. 511 (S.D.N.Y.), the case of

SECRET

SECRET

- 14 -

an Alsatian born in Alsace before its annexation by Germany in 1871, who was held as an enemy alien under Wilson's proclamation, and in re Jonasson, 241 Fed. 723 (Md. 1917). But see Ex parte Gilroy, supra, contra, semble; See also Minotto v. Bradley, 252 Fed. 600 (N.D. Ill. 1918), holding that a "native" need have no allegiance to the country of his birth.

The alien in the d'Esquivia case was a Vienna Jew who had been domiciled in France in 1919 before entering the United States in 1939 on a tourist visa, and had thus left Austria long before the Anschluss. The Court, on the authority of Jones v. U. S., 137 U. S. 202, 212 (1890) and U. S. v. Pink, 315 U. S. 203, 229 (1942) held that "recognition of foreign nations is a political question, the determination of which by the legislative and executive departments conclusively binds the courts", and remanded the case for further evidence as to the non-recognition by the United States of the annexation of Austria by Germany, which it held necessary for a determination of the question whether the alien was a native of a hostile country. Swan, J., dissented on the ground that the recognition of the annexation was an irrelevant issue.

The definition of "native" given in the Esquivia case was followed in U. S. ex rel Umsicker v. McCoy, 54 Fed. Suppl. 679 (N. Dakota SWD 1944). This case involved the internment of an Alsatian born in 1893 who entered the United States in 1930 but never completed his naturalization. Vogel, J., pointing out that nativity was determined solely by the place of birth

SECRET

- 18 -

SECRET

and was not a matter of choice, and that the alien's place of birth, Alsace, was recognized by the Department of State as now being a part of France, held that the alien was a native of France and hence not an enemy alien.

Whether Mr. and Mrs. K are "natives" of a hostile country would normally depend, then, under the most recent holdings, on the legal effect of the non-recognition by the United States of the annexation of Austria by Germany.

The situation as to Mr. K appears to be that he is a subject, not by birth but by election, of a country (Austria) whose annexation by another country (Germany) has not been recognized by the United States. The non-recognition of the annexation of Austria by Germany is irrelevant for the purpose of determining the country of which Mr. K is a "native", since he was not born within the limits of Austria, and in spite of his Austro-Hungarian birth, his birthplace is now recognized by the United States as belonging to Yugoslavia. Mr. K, therefore, is a "native" of Yugoslavia.

Mrs. K, however, is a "native" of Romania. She, too, was born an Austro-Hungarian citizen, but her birthplace is now recognized by the United States as Romanian territory. She comes, therefore, under the terms of Presidential Proclamation No. 2563 concerning natives of Romania (pp. 7-10, supra). The recent surrender of Romania does not affect her status: enemy aliens remain such until a Treaty of Peace is ratified by the Senate, regardless of a prior surrender or armistice. Lipmansvich

SECRET

SECRET

- 16 -

v. Cookston Lumber Co., 168 Minn. 332, 210 N.W. 47 (1926);
Industrial Commission of Ohio v. Rotar, 124 Ohio St. 416,
179 N. E. 135 (1931); Garvin v. Diamond Coal and Coke Co.,
278 Pa. 469, 123 Atl. 468 (1924); 6 Hackworth Digest of
International Law, 381-384. The Attorney General has determined
that Mrs. X was at large to the danger of the public peace and
safety; his executive decision is not reviewable by the courts.
His ultimate decision, on the basis of the recommendation of the
Alien Enemy Hearing Board, will be conclusive.

SECRET

SECRET

- 17 -

Whether Mr. and Mrs. K are "citizens or subjects" of a hostile country, within the meaning of the Alien Enemy Act, raises certain disputed points of international law; whether an annexing nation can impose its nationality upon citizens of the annexed country who have departed prior to the annexation; what effect non-recognition of an annexation has on the nationality of inhabitants of an annexed area; and what bearing possible "statelessness" has on enemy alien status. Chief Justice Marshall, in American Insurance Co. v. Canter, 1 Pet. 511 (1828), at p. 542 says: "On the transfer of territory the relations of its inhabitants with the former sovereign are dissolved; the same act which transfers the country, transfers the allegiance of those who remain in it". Halleck, International Law (4th ed. 1908), II, at p. 508, goes further, saying: "The allegiance of those who do not remain, of course, is not so transferred with the territory. There is no consent either express or tacit, on their

SECRET

SECRET

- 18 -

part, in order to make the transfer complete and binding." Oppenheim, *International Law* (5th ed. 1937), Vol. I, p. 240, says that a distinction must be made between those who leave before and those who leave after annexation; the latter become subjects of the new sovereign, the former do not. In Boyd v. Thayer, 143 U. S. 135 (1892), Fuller, C. J., said, at p. 182: "The nationality of the inhabitants of the territory acquired by conquest or cession, becomes that of the government under whose dominion they pass, subject to the right of election on their part to retain their former nationality by removal or otherwise as may be provided." This seems to be the majority American rule. Inglis v. Trustees of the Sailor's Snug Harbor, 3 Pet. 99 (1830); Jones v. McMasters, 20 How. 8, 20 (1858); U. S. v. Repentigny, 5 Wall. 211 (1867); American Insurance Co. v. Canter, 1 Pet. 511 (1823); U. S. v. Cruikshank, 92 U. S. 542, 549 (1875). See also Moore, *International Law Digest* (1906), III, p. 379, 380; 3 Hackworth, *Digest of International Law*, 346. But cf. Mellvaine v. Cocks's Lessee, 4 Cranch 298, 214-215 (1808); In re Pfeiffer, 254 Fed. 511 (S.D.N.Y. 1918). There is authority for the proposition that when a State is wholly absorbed, all its citizens, wherever resident, become citizens of the acquiring State. See McNair and Lauterpacht, *Annual Digest* (125-6), Cases Nos. 195-26 (Egyptian Mixed Court of Appeal, 1925); Hall, *International Law* (1904) 70. But see Westlake, *International Law* (1904) 70 and authorities cited supra.

SECRET

SECRET

- 19 -

This principle was squarely affirmed in the recent case of U. S. ex rel. Schwarzkopf v. Uhl, 137 Fed. (2) 898 (N.Y.S.D. 1943), a companion case to the Requiva case, *supra*. Swan, J., held in that case that a Jew born in Prague who became a citizen of Czechoslovakia on its formation in 1919, a citizen of Germany by naturalization in 1925 and of Austria by naturalization in 1933, who immigrated to the United States under the Czechoslovakian quota in 1936, and who thus resided here at the time of the Anschluss, was not a German citizen. Judge Swan reached this decision on the ground that the alien had left Austria before the Anschluss. But Judge Clark in the Requiva case distinguished the two decisions on the ground that in the Schwarzkopf case the alien was a native of territory officially recognized by this Government as legally belonging to Czechoslovakia, whereas in the Requiva case the alien was a native of Austria proper, as to the non-recognition of whose annexation by Germany more evidence was necessary.

The Anschluss took place 13 March 1938. The Austrian ambassador promptly informed the Department of State that Austria had ceased to exist as an independent nation. On 6 April 1939 the American Ambassador delivered two notes to the German Foreign Minister expressing this Government's necessity of accepting the announcement for practical purposes, replacing the American Legation at Vienna by a Consulate General and looking to Germany for payment of the Austrian debts. The Presidential Proclamation

SECRET

-20-

SECRET

of April 26, 1938, (No. 2293, 52 Stat. 1544), abolished the Austrian, and proportionately increased the German, immigration quota. In Land Oberosterreich v. Gude, 109 Fed. (2) 635 (S.D.N.Y. 1940), Clark, J., at p. 637 states that the annexation of Austria "occurred in a manner acceptable to our notions of international law, the Anschluss has in no wise been disavowed by the Department of State". He held, however, that a political subdivision of former Austria, not abolished by Germany, had capacity to sue in Federal Courts.

On 22 July 1942, however, Secretary of State Hull declared: "This Government has never taken the position that Austria was legally absorbed by the German Reich." Press Release of the Secretary of State, 27 July 1942; Department of State Bulletin, 1 Aug. 1944, p. 66. The Immigration and Naturalization Service of the Department of Justice issued instructions to the effect that Austrians were not to be considered as natives of Germany. The Department of Justice no longer interns Austrians as enemy aliens. Ex. Order 8785, June 14, 1941, 12 U.S.C.A. Sec. 95, note, distinguishes Austrians from Germans. Austrians who erroneously registered as Germans in 1940 under the Alien Registration Act of June 28, 1940 (10 U.S.C.A. 451-460), have been allowed to correct this registration. Department of Justice Releases, 8 Feb. 1942 and 11 June 1942. On November 14, 1942, the Secretary of War approved creation of an Austrian army.

SECRET

- 21 -

SECRET

Under this state of affairs the Courts have not yet felt themselves able to decide whether as a matter of law the Executive Department has refused to recognize the German annexation of Austria. They hold, of course, that recognition between nations is a political question, the determination of which by the legislative and executive departments conclusively binds the courts. Jones v. U. S., 137 U. S. 202, 212 (1890); U. S. v. Pink, 315 U. S. 203, 220 (1942); Wilson v. Shaw, 204 U. S. 24 (1907). The same applies to non-recognition (the cases usually involve "unrecognized revolutionary governments"). Rose v. Himely, 4 Cranch 241 (1808); Gorlston v. Hoyt, 3 Wheat. 246, 374 (1818); Williams v. Suffolk Insurance Company, 13 Pet. 415 (1839). As Chief Justice Marshall said in U. S. v. Palmer, 3 Wheat. 610 (1818) at p. 625, "Such questions belong more properly to those who declare what the law shall be; who can place the nation in such a position with respect to foreign powers as to their own judgment shall appear wise; to whom are entrusted all its foreign relations; than to that tribunal whose power as well as duty is confined to the application of the rule which the legislature may prescribe for it." Gray, J., said in Jones v. U. S., supra, at p. 212, "Who is the sovereign, de jure or de facto, of a territory is not a judicial but a political question, the determination of which by the legislative and executive departments conclusively binds the judges." Courts in doubtful cases may seek clarification from the executive. Ex parte Hitz, 111, U. S. 766 (1883), In re Baiz, 135 U. S. 403 (1890). This may be done

SECRET

SECRET

- 22 -

even on appeal. Oetjen v. Central Leather Co., 246 U. S. 297, 301 (1918); Russian S.F.S.R. v. Cibrario, 235 N. Y. 255, 139 N. E. 259 (1919). An American court can accept no evidence to establish the identity of a foreign sovereign, except the Federal executive department. Williams v. Suffolk, supra 21; Kennett v. Chambers 14 How. 38, 51 (1850); Willoughby Constitutional Law, Sec. 194, (2d ed. 1929). Thus an American court could accept no evidence as to the existence of a government differing from the Kerensky government, prior to the recognition of the Soviets. Russian Government v. Lehigh Valley R.R. Co., 293 Fed. 133, 135 (S.D.N.Y. 1923). In the Esquivia case, however, the court refused to apply directly to the executive, and there the question of Austrian independence stands, insofar as the courts are concerned. However, the present administrative practice leaves little doubt that the Anschluss is considered "not recognized" by the United States Government as of the present day.

What consequences, then, flow from this non-recognition, insofar as the nationality of the aliens in the instant case is concerned? The effects of recognition are retroactive, and validate all acts of the government prior to recognition. Oetjen v. Central Leather Co., supra; Williams v. Bruffy, 96 U. S. 176 186 (1877). Presumably non-recognition, in a doubtful case, would be interpreted as having the opposite effect, of retroactively invalidating acts of the de facto government; such a statement seems nowhere to be made, partly perhaps because

SECRET

- 23 -

SECRET

the Austrian situation seems to be unprecedented, partly because in such a case no recognition is deemed ever to have taken place. The conduct of informal relations does not of itself imply recognition. An act short of explicit recognition must be of such unequivocal character as to leave no doubt as to the intention of the state making it to deal with the other government as such. Thus, consuls have been stationed in Manchukuo without implying recognition. 1 Hackworth Op. Cit. supra 327. But the refusal of the political department to recognize a government does not affect private rights which depend upon proving existing conditions in that state. Banque de France v. Equitable Trust Co. of N. Y., 33 Fed. (2) 202, 206 (S.D.N.Y. 1929). It is for this reason that the Esquivia and Zdunio cases were remanded for further evidence.

It certainly cannot now be argued that the United States Government has ever explicitly recognized the German annexation of Austria. Austrian citizens, therefore, presumably retain their Austrian citizenship; and under the prevailing American view, they would in any case retain it if absent from Austria at the time of the Anschluss, without ever returning.

It is possible, of course, under a dictum of the Schwarzkopf decision, to consider Austrians in exile "stateless", in which case they are not aliens at all under one definition, according to which an alien is one owing allegiance to a foreign government. De Cano v. State, 7 Wash. (2) 613, 110 Pac. (2) 627, 631, 633 (1941); Ex parte Fung Sing, 6 Fed. (2) 670 (D.C. 1925); Gonzales v. Williams, 192 U. S., (1903)

SECRET

SECRET

- 24 -

The effect on nationality of non-recognition of a change of sovereignty happens to be an uncertain point in international law. The one writer who considers the point specifically, without citing authority, states that: "Non-recognition de jure, while admitting the fact of transfer (of territory), would bar giving effect to the legal consequence of a factual situation, and that "the logical approach must be from the municipal law, rather than the international law point of view." The problem would be squarely posed by the hypothetical case of a Latvian citizen residing in Canada at the time of the absorption of Latvia by the Soviet Union (which absorption was not recognized by Canada) who marries a Canadian woman, who will always retain her citizenship under Russian law, but will not under Canadian law upon marriage to an alien unless the alien is considered stateless.

One solution proposed is that since Canada considers the man a Latvian citizen, a Canadian Order-in-Council could be issued, providing that all Canadian women who married Latvian citizens would retain their citizenship. See Frazer, "Transfer of Sovereignty and Non-Recognition as Affecting Nationality", 4 Alta. L.Q. 138, 151-155 (1941). The view propounded is in harmony with the American practice when such citizens are residing outside a country when it is annexed; as discussed above, under American court decisions the effect of our non-recognition of the Anschluss is to preserve the Austrian citizenship of Austrian nationals residing outside Austria at the time of the Anschluss.

SECRET

- 25 -

SECRET

Frazer's proposal would seem to be in accord.

Mr. K would, therefore, normally be recognized as an Austrian citizen, because of our non-recognition of the Anschluss. There would be no doubt about this if he had left Austria prior to the Anschluss and never returned there, or if he had elected to leave Austria permanently shortly afterwards. In point of fact, however, he followed the opposite course of conduct; he was apparently in Austria at the time of the Anschluss, and subsequently, far from leaving German jurisdiction upon annexation, he established residence in Munich, within the limits of Germany itself. The question, then, is whether he has not by his own act elected German citizenship. In cases of doubt, the burden of proof is on the alien to show that he does not possess enemy citizenship. Ex parte Graber, 247 Fed. 882 (N.D. Ala. 1918); Minotte v. Bradley, *supra*, p. 14. The American courts have never gone so far as to hold that Austrians who remained in Austria voluntarily after the Anschluss are not to be considered citizens, subjects or "denizens" of Germany for the purpose of enemy alien internment. It may be objected that such a conclusion, paradoxically, would give effect to the unrecognized annexation for certain purposes. To this objection the answer can be made that as a matter of German law, which is recognized for some purposes (Land Oberosterreich v. Gude, *supra*, p. 16), the alien by his own conduct became a German national. We therefore conclude that Mr. K probably would be held to be a "citizen" of Germany.

SECRET

SECRET

- 26 -

Mrs. K is claiming Austrian nationality on the same theory as her husband. She could further assert that she had acquired such nationality by virtue of her marriage. This, however, is a matter of foreign law (Romanian) which must be proved in our courts, and the burden of proof is entirely upon the alien. In any case, by a parity of reasoning (loss of nationality by marriage) she might be considered to have acquired German (and hence enemy) nationality by her marriage. In any event, the question of her present nationality has nothing to do with her internability as a "native" of Romania.

It would appear, then, that both Mr. and Mrs. K are alien enemies, Mr. K as a citizen or denizen of Germany, Mrs. K possibly as a citizen of Germany but certainly as a native of Romania. The question thus arises as to what judicial remedies they, as alien enemies, may possess. Resident alien enemies may sue in our courts, even for personal injuries, under the Trading with the Enemy Act (50 U. S. C. 7), in the absence of a Presidential proclamation, which has not been forthcoming, except as hereinbelow stated to the contrary (p. 34, *infra*). Ex parte Kumazo Kawato, 317 U. S. 69 (1942); Birge-Torber v. Heye, 251 U. S. 317 (1919); Uberti v. Maiaticeo, 44 Fed. Supp. 724 (D.C. 1942); Anastasio v. Anastasio, 44 Fed. Supp. 725 (D.C. 1942); Verano v. de Angelis Coal Co., Inc., 44 Fed. Supp. 726 (D.C. 1942); Stern v. Ruzicka, 44 Fed. Supp. 726 (D.C. 1942); Petition of Bernheimer, 130 Fed. (2d 396 (C. C. A. 3d 1942); Speidel v. H. Barstow Co., 243 Fed. 321 (R.I. 1917); Kaufman v.

SECRET

-27-

SECRET

Eisenberg, 32 N.Y.S. (2) 450 (1942); Wolf v. Cudahy Packing Co., 105 Kan. 317, 192 Pac. 395 (1919). The theory is that our courts should remain open to alien enemies residing peacefully in this country under its laws, without disturbing the peace or aiding the enemy cause. Otteridge v. Thompson, 2 D. C. 108, Fed. Cas. No. 10, 618 (1914); Arndt-Ober v. Metropolitan Opera Co., 169 N. Y. Supp. 944 (1918); Hughes v. Techt, 229 N. Y. 222, 128 N.E. 135, cert. denied 254 U. S. 643 (1919). There is no longer any danger that property recovered by the alien enemy will swell the resources of the enemy, since the Alien Property Custodian laws preclude this. Brown v. J. P. Morgan & Co., 31 N. Y. Supp. (2d) 815 (1941); Krachanake v. Aome Mfg. Co., 175 N.C. 435, 437, 95 S.E. 851 (1918).

Non-resident enemy aliens, on the other hand, may not sue under the Act. Ex parte Colonna, 314 U. S. 510 (1943); I. D. & A. B. Spreckels Co. v. The Takaoka Maru, 44 Fed. Supp. 939 (S.D.N.Y. 1942); Burbaum v Assicurazioni Generali, 34 N.Y.S. (2) 480, 482 (1942); Braun v. Italia S. A. de Navigazione, 35 N.Y.S. (2) 246 (1942); The Santa Lucia, 44 Fed. Supp. 795 (S.D.N.Y. 1942). The prohibition extends under the Act to non-resident allies of enemies, including Finnish sailors - Sundell v. Lotmar Corp., 44 Fed. Supp. 816 (S.D.N.Y. 1942). A Hungarian sailor who had overstayed his shore leave, and hence, being illegally in the United States, was subject to deportation, was held not a resident enemy alien for the purpose of suing for personal

SECRET

SECRET

- 28 -

injuries. The Leontios Terryazon, 48 Fed. Supp. 618 (E.D.N.Y. 1942). A contrary result in Bernheimer v. Vurpillot, *supra*, p. 9, (not involving a question of residence), reached on the ground that President Roosevelt's proclamation intends greater restrictions than President Wilson's, has not been allowed to stand. Under The Leontios Terryazon it is possible that because of the nature of their immigration, the aliens in the instant case might not be considered resident alien enemies and hence could not use the Federal Courts.

At common law, alien enemies had no right to sue, not even for a writ of habeas corpus; "alien enemy was an odious plea". As pointed out on pp. 5-6 *supra*, this rule still applies in the United States. Cf. Caperton v. Bowyer, 14 Wall. 216 (1871); Hanger v. Abbott, 6 Wall. 532 (1867); Masterson v. Howard, 18 Wall. 99, 106 (1873); Rothbart v. Herzfeld, 67 N.Y.S. 199 aff. 223 N.Y. 576, 119 N.E. 1075 (1918). It has not been changed in England. Porter v. Freudenberg (1915), 1 K.B. 867. But it is held in the United States that a person interned as an alien enemy may now raise the question of jurisdiction over his citizenship by means of habeas corpus proceedings. Ex parte Gilroy, 257 Fed. 110 (S.D.N.Y. 1919); Ex parte Risse, (in re Stallforth), 257 Fed. 102 (S.D.N.Y. 1919); cf. Ex parte Graber, *supra* p. 25; Ex parte Franklin, 253 Fed. 984 (1919); Minetto v. Bradley, *supra* p. 14 (1918); U. S. ex rel Zaunick v. Uhl, *supra*, p. 11, U. S. ex rel Schwarzkopf v. Uhl, *supra* p. 19, U. S. ex rel Esquivia v. Uhl, *supra* p. 13. The cases cited hold that the determination of whether or not an alien enemy is

SECRET

- 29 -

SECRET

in fact to be "deemed" dangerous is an executive function, political in nature (similar to that of recognition and non-recognition of foreign governments), which the courts have no power to review, under the principle that where a statute gives discretionary power to an executive to be exercised on his own opinion of certain facts, he is the sole judge thereof. Martin v. Mott, 12 Wheat. 19, 6 L. Ed. 537 (1827). Under these decisions, then, the aliens in the instant case have the right to question the determination by the Attorney General as to their citizenship and, based thereon, their status as alien enemies, but not the determination by the Attorney General of the fact that they are aliens "dangerous to the public peace or safety of the United States".

Section 3 of the Alien Enemy Act (50 U.S.C.A., sec 23), provides for a hearing before a criminal court prior to the detention of an alien enemy; the cases cited supra have, in effect, read this provision out of the Act, by holding that the executive action of internment is non-reviewable (except as to the factual question of citizenship) even though no court hearing was ever held and there thus was no compliance with the statutory requirement. The Department of Justice has nevertheless set up a number of Alien Enemy Boards throughout the country to hear the cases of alien enemies. These Boards have the power to make recommendations to the Attorney General, in whom rests the final discretion as to whether internment should take place. See

SECRET

SECRET

- 30 -

Memorandum to this file, dated 7 August 1944. The aliens in the instant case have apparently filed the preliminary papers required in such a hearing.

It has been pointed out above that, as a matter of our national law, the aliens in the instant case are now being validly detained under the law, subject to their right to raise the question of jurisdiction by habeas corpus proceedings, even though no Alien Enemy hearing on their case has yet been held. The final disposition on the question of their internment will not be made until after the hearing takes place. Their rights under international law remain to be considered.

These aliens cannot question the right of the United States to intern them, as a matter of international law. The original doctrine recognized the unqualified right of a sovereign to detain the persons of enemy aliens found in his dominions in time of war. Grotius, liv.ii, ch. ix, Sec. 4. The practice, however, gradually became obsolete. Bynkershoek, Quaestiones juris publ., liv.iii, ch. ix, Sec. 4. In the eighteenth century the rule was that enemy aliens should be given a reasonable time to depart. Vattel Droit des Gens, III, ch. iv, Sec. 63. The last general internment occurred prior to the World War in 1803, when Napoleon declared all Englishmen resident in France to be prisoners of war, in alleged reprisal for English violations of international law concerning the seizure of French vessels; by the outbreak of the World War the accepted rule was that no general right to intern enemy aliens existed. Hershey, Essentials of

SECRET

- 31 -

SECRET

International Law (1912) p. 362. Westlake, International Law (1907), 42. A Japanese proposal at the Second Hague Peace Conference (1907) for theoretical limitation of belligerent rights concerning alien enemy internment was rejected, lest an obsolete practice be revived. Proceedings of the Hague Peace Conference, III, pp. 110-114, 124, 125, 243. Nevertheless, there was authority to the effect that males capable of bearing arms could be interned. Bonfils, Manuel de Droit International Public (1901), Sec. 1052; Calvo, Droit int. pub., IV, p. 54; Twiss, Law of Nations, II, Sec. 80. England never abandoned the old rule, which was in conformity with the common law rule that alien enemies had no rights in time of war, and during the World War there was a general reversion to the practice of internment, which is now recognized as a lawful belligerent measure. 3 Oppenheim, International Law (6th Ed. 1940), Sec. 100. It is justified on the ground that improved methods of communication have made any other rule not only obsolete but dangerous. 3 Hyde, International Law Chiefly as Interpreted and Applied by the United States (1922) Sec. 616-617.

The only question which can be raised, therefore, as a matter of international law, is that of treatment during internment. The discipline or restraint which may be exerted over enemies has been held to be a matter of treaty or international regulation. Halpern v. Commanding Officer, supra, p. 7. The status of civilian internees, however, has "not yet been settled by generally accepted conventional, as distinguished from customary, rules of international law". Koessler, "Enemy Aliens"

SECRET

SECRET

- 38 -

with special reference to Great Britain and France," 87 Pol. Sci. Q. 98, 100. A draft of regulations for the treatment of civilian prisoners of war was submitted by the Prisoners of War Committee of the International Law Association at its thirty-third conference (Stockholm, 1934). The Fifteenth International Conference of the Red Cross (Tokyo, 1934) adopted a draft recommendation which was to be submitted to a diplomatic conference announced by the Swiss Federal Council for 1940, which never met due to the outbreak of hostilities. Koessler, ibid., p. 99; see Work of the International Red Cross Committee and of the Central Agency for Prisoners of War Since the Outbreak of War (Geneva, 1940). It becomes necessary, therefore, to examine the customary practice of the United States with regard to the treatment of civilian enemy internees.

The Rules of Land Warfare of the War Department of the United States declare (Basic Field Manual [F.M. 27-10 1940], 16 - at p. 275):

"Except as otherwise hereinafter indicated, every person captured or interned by a belligerent power because of the war is, during the period of such internment, a prisoner of war, and is entitled to be recognized and treated as such under the laws of war."

No distinction appears to be drawn between civilian internees and military internees, although the distinction is recognized under international law. Flory, Prisoners of War [1942] pp. 24-25.

The English rule is, however, that a civilian enemy internee "may properly be described as a prisoner of war, although not a

SECRET

SECRET

- 83 -

combatant or spy". The King v. Superintendent of Vine Street Police Station, [1916] 1 K.B. 868, 274-5. "If recourse is had to internment, the individuals taken into custody, until convicted of offenses against the local law, are believed to be entitled to treatment as favorable as that accorded prisoners of war." Memorandum of Sir Edward Grey to Mr. Page, American Ambassador at London, Dec. 14, 1914, Misc. No. 7 (1915), Cd. 7217, p. 23, in 2 Hyde, Op. Cit. Supra, p. 346.

There appear to be few American decisions discussing the definition of prisoners of war. One of these is an Arizona decision holding that an Indian taken into custody after an affray on an Indian reservation, no state of war having been declared against the Indians, is not a prisoner of war. Ex parte Bi-a-Lil-Le, 12 Ariz. 180, 100 Pac. 450 (1909). In another, the recent saboteur case, Ex parte Quirin, 317 U. S. 1 (1942), Chief Justice Stone draws a distinction between lawful belligerents under the laws of War who are entitled to prisoner of war treatment and unlawful belligerents who are not, giving at p. 21 the following illustrations of the latter:

"The spy who secretly and without uniform passes the military lines of a belligerent in time of war, seeking to gather military information and communicate it to the enemy, or any enemy combatant, who without uniform comes secretly through the lines for the purpose of waging war by destruction of life or property, are familiar examples of belligerents who are generally deemed not to be entitled to the status of prisoners of war, but to be offenders against the law of war, subject to trial and punishment by military tribunals."

SECRET

SECRET

- 34 -

This decision discusses only the status of unlawful belligerents, not that of civilian internees in general. During the World War the Judge Advocate General had occasion to distinguish between prisoners of war and civilian internees. The former were defined as: "Persons who have been at war with the United States and have been captured by our forces in the course of military operations." The latter were thus characterized: "They are persons who have never fought against us and who have never been part of a force fighting against any one. They have never assumed the hazard of becoming prisoners of war in the strict sense. They have never been captured by our forces. They have never been interned by reason of a duty owed to some other country. It is also interesting to note that they have never been convicted of any crime. They are simply alien enemies who were within our boundaries when we entered the war and also have so acted as to be deemed dangerous." Opinions of the Judge Advocate General (1918), vol. 2, pp. 373, 374.

The Judge Advocate General also decided that a German Naval Reserve officer interned as an enemy alien was not a prisoner of war, saying: "Internment does not make the prisoner interned a prisoner of war in the strict sense, nor does it clothe him with any military status that he did not have when interned." Digest of Opinions of the Judge Advocate General of the Army, 1912-1940 (1942), 832-837; ibid., 1912-1931, pp. 1097, 1098.

SECRET

SECRET

- 35 -

See also Opinions of the Judge Advocate General (opinions dated July 20, 1918), 1918, Vol. 2, p. 522. The Department of Justice took the same position. See 6 Hackworth 191.

On 11 November 1918 an agreement concerning civil prisoners, never ratified because of the Armistice, was signed between the United States and Germany, wherein prisoners of war were defined as "persons captured while in the active service of the armed forces of their state of origin," while civil prisoners were defined as all other "citizens or subjects of either contracting party held in confinement of the other for any reason except violation of the penal laws of the captor state," except sanitary personnel and war correspondents. Text in 13 Am. Journ. Int. L. (1919), Supp., pp. 1-72, 71.

During the World War, the distinction between civilian internees and prisoners of war was thus recognized by the United States. Their treatment was discussed at length by the Judge Advocate General, who ruled that it was lawful to exact care of quarters and standardized work from civilian internees. Standardized work was defined as that which, while not adjusted to personal peculiarities, is within the physical and mental abilities of the average person, though possibly distasteful in individual cases. Care of quarters was defined as not work, but "a normal incident of independent life". Work so laborious or unpleasant as to amount to the inflicting of punishment was not to be exacted, as they were not criminals; neither were tasks to be assigned to those mentally or physically unable to perform them, for that

SECRET

SECRET

- 36 -

would amount to punishment. Diversities of sex, strength and health were to be considered, but, in order to avoid mutiny, preference was not to be given to persons of wealth or refinement. Opinions of Judge Advocate General, 1918, vol. 2, pp. 373-376.

As a further illustration of United States policy towards civilian internees during the World War, Article 170 of the Agreement between the United States and Germany concerning Civil Prisoners, provided as follows:

"Civil prisoners shall not be called on to undertake any form of compulsory work, except that directly connected with the maintenance and sanitation of the camp or other place in which they may be detained. In apportioning such work, consideration shall be given to the education and profession of the prisoner. No force, threats, menaces, deprivation of privileges, nor any other means shall be employed for the purpose of inducing civil prisoners to undertake any other form of work than herein specified. They shall, however, upon written request, and not otherwise, be allowed to perform work of a character similar to that performed by prisoners of war and under no less favorable terms." Text in 13 Am. Journ. Int. L. (1919) Supp. p. 48.

Various articles of the proposed agreement pertaining to the treatment of prisoners of war were made applicable to civil prisoners, including Article 23, giving female prisoners "every protection against harsh treatment, insult or manifestation of disrespect in any way related to their sex." Ibid. pp. 1-72, passim.

In short, the disposition of the United States during the World War was to accord civilian internees treatment sub-

SECRET

SECRET

- 37 -

stantially similar to that accorded prisoners of war, while recognizing the distinction in theory, so as to prevent members of enemy reserve forces from claiming special military treatment.

"On the entry of the United States into the War, this country informed the German, Italian and Japanese Governments that it intended to apply to civilian enemy aliens taken into custody the provisions of the Geneva Convention on Prisoners of War, so far as those provisions might be applicable to civilians."

Germany accepted. 11 Geo. Wash. L.R. 508, 519 (1943). 6 Department of State Bulletins 445 (May 23, 1943). Articles 2 and 3 of the Geneva Convention provide as follows (Geneva Prisoners of War Convention of 27 July 1929. 47 Stat. 2031; Treaty Series No. 846; Malloy, Treaties, Vol. IV, p. 52247):

"Prisoners of war are in the power of the hostile Power, but not of the individuals or corps who have captured them.

"They must at all times be humanely treated and protected, particularly against acts of violence, insults and public curiosity.

"Measures of reprisal against them are prohibited.

"Prisoners of war have the right to have their person and their honor respected. Women shall be treated with all the regard due to their sex."

"Prisoners retain their full civil status."

It would appear, therefore, that since Mr. and Mrs. K are to be considered alien enemies, they would be entitled to the treatment accorded to prisoners of war, in spite of their reluctance to claim such privileged treatment, unless they are guilty of acts forfeiting their prisoner of war status (an

SECRET

SECRET

- 38 -

exception to be discussed subsequently). They would seem to be precluded, however, from claiming both Austrian citizenship and prisoner of war status. As there is some question as to the "purity" of Mrs. K's "Aryan" parentage, the question might arise as to her possible statelessness, on the theory that she had both been granted and deprived of German citizenship. The official executive attitude as to statelessness, as bearing on enemy alien status, is indicated in the Regulations issued by the Attorney General on 5 February 1942, 7 Fed. Reg. 844, controlling the travel of alien enemies. By Section 30.1b these regulations specifically apply to aliens over 14 years of age who are stateless but prior thereto were citizens or subjects of Germany, Italy or Japan. By Sec. 30.2b, it is to be noted that they do not apply to Austrians or Austro-Hungarians who registered as such in 1940, provided they have not voluntarily at any time become German, Italian or Japanese citizens. The same section provides, however, that these regulations shall not be construed to define or limit the classes of aliens of enemy nationality subject to apprehension, detention, or internment in Presidential Proclamations 2525, 2526, 2527 or 2537.

Since statelessness does not preclude that an alien be considered as an enemy for the purpose of internment, it would seem logical to conclude that an interned stateless alien of enemy origin would be entitled to the benefits of the Geneva Convention. But in Mrs. K's case, it would seem simplest to

SECRET

- 39 -

SECRET

consider Mrs. K as a "native" of Romania for the purpose of internment; and while the United States does not appear to have determined formally to apply the benefits of the convention to Romanian internees, such benefits probably would be granted. If she is to be treated as a German citizen, the Convention would apply.

Under one definition, as has been shown, it is possible that Mrs. K, if considered stateless, would not be considered an enemy, as an alien enemy is one who owes allegiance to an enemy nationality. Ashlen v. Hickman, 60 Ala. 540 (1877). But the better view is that a person who would otherwise be an alien enemy but for the sole fact that he has lost his nationality of origin, may still be considered an alien enemy if he has not acquired another. Keller v. Secretary of State of Canada (1939) 4 D.L.R. 145; King v. Vine Street Police Station Superintendent, ex parte Liebmann, supra p. 35; Ex parte Weber, (1916) 1 A. C. 491; Hahn v. Public Trustee (1938) 61 Ont. D. 715. An alien is a person born out of the jurisdiction of the United States and not naturalized according to its laws. Low Wah Suey v. MacKue, 225 U. S. 460, 473 (1911).

It is to be noted that prisoners of war are not entitled to apply for writs of habeas corpus. Ex parte Guirin, supra p. 35; Gusatu v. Date, 17 Quebec Pr. 95 (1915). Re Horanek, 33 Ont. Law Rep-130 (1915).

This fact, however, probably would not be held to deprive civilian internees of the right to raise the question of their status by means of that writ; the Geneva Convention

SECRET

SECRET

- 40 -

would probably be held to determine only the treatment they are entitled to receive, and not to modify their other rights. An interned alien enemy has been held to retain his right to sue on a contract made prior to his internment. Scheffening v. Goldberg (1916) 1 K. B. 884. It might be contended that an alien brought into this country against his will would be a prisoner of war as a matter of status, and hence not entitled to any sort of civil remedy. There seems to be some data to support such a definition. See comments of Galligan, P. M., in Rex v. Krebs, (1943) 4 D.L.R. 553, holding that an escaped prisoner of war is not criminally responsible for breaking and entering a dwelling house and stealing articles essential to his escape, and describing the defendant (at p. 557) as "an open and avowed enemy - - -, a man taken in war and a man who, if it is not his duty, may quite reasonably feel that it is his duty to escape from the domains of his captor state, and, if he can, return to the state to which he owes allegiance and perform his duty to that state" (citing several English cases). It is submitted that Mr. and Mrs. K by their own conduct are precluded from the operation of any such definition.

The female alien's chastity was once publicly called into question, and she was made to perform latrine duty. She could possibly be considered unfit for the latter work, although it may have been necessary for the sanitation of her quarters.

SECRET

SECRET

- 41 -

However, both are minor complaints at best, and it appears that neither alien has received treatment of which he or she could complain under international law. Even if Mr. and Mrs. K were to be considered not alien enemies, but stateless or neutral or allied subjects, they cannot complain. Arrests upon suspicion in time of war will not serve as foundation for claims for damages before international tribunals and this rule applies to neutral subjects. Ralston, The Law and Procedure of International Tribunals (1926), p. 411. If they are determined to have been guilty of espionage, of course, the alien enemy status or prisoner of war of these aliens becomes irrelevant and they have no right to complain of any treatment on grounds of its menial character.

Assuming for the moment, however, that Mr. and Mrs. K are internable solely as alien enemies, without reference to their conduct, it is to be noted that the Alien Enemy Act and the Presidential Proclamations thereunder have reference to alien enemies "within the United States". Do the Act and Proclamations apply to aliens not within the United States at the outbreak of hostilities and later brought in by the Government? Would those facts have any bearing on their right to be considered as prisoners of war? The language, both of the Act as well as the proclamations, is certainly broad enough to include all alien enemies physically within the United States at the time of their apprehension, regardless of the time or mode of their entry. That the Department of Justice acts in accordance with such a construction is proved by the pl

SECRET

SECRET

- 42 -

of these aliens themselves. At common law, alien enemies had no right to enter England in time of war. Sylvester's case (1702) 7 Mod. 150; see also Ex parte Weber, supra p. 39; King v. Vine St. Police Station, supra p. 33; cf. Re Chamryk, 25 Manitoba 50 (1914) (holding that an alien enemy has no right to a writ of habeas corpus), Re Beranek, 33 Ont. Law Rep. 139 (1915). During the World War, the Canadian courts had occasion to hold that an alien enemy had no right to enter Canada during the war, was always liable to arrest for doing so, and that therefore an enemy alien who entered Canada illegally from the United States could obtain no redress after internment. Re Gottesman, 41 Ont. L. 547 (1918). The elaborate regulations governing the entry and departure of aliens in the United States seem to justify a similar interpretation in this country.

The mere physical presence of an enemy alien within our borders, regardless of his mode of entry, should suffice as a basis for his internment, subject to his privilege of treatment as a prisoner of war if entitled thereto by virtue of his nationality and his conduct. But the mere existence of a state of war gives the President many powers, under certain circumstances, to deal with these aliens regardless of their enemy status. In England even a dangerous citizen can be interned without recourse to a writ of habeas corpus. Zadig's Case, (1917), A. C. 260. Prudent governments enjoy the widest rights to take necessary steps for their own protection.

SECRET

- 43 -

SECRET

2 Hyde, cit supra, 226-232, 616-617. Offenses under the Espionage Act of June 15, 1917, 40 Stat. 217 (50 U. S. C. Sec. 31-42) do not depend on the fact of alien enemy status; it would be sufficient to prove the accused guilty of obtaining information, obtaining possession of government papers, delivering such information or papers to a foreign government or conspiracy to perform any of these acts. See Gorin v. U. S., 312 U. S. 19 (1940) aff. 111 Fed. (2) 712.

Under the terms of Presidential Proclamation No. 2561, July 3, 1942, 7 Fed. Reg. 5101 (10 U.S.C.A. Sec. 1554, note) "All persons who are subjects, citizens, or residents of any nation at war with the United States, or who give obedience to or act under the direction of any such nation, and who during time of war enter or attempt to enter the United States, or any territory thereof, through coastal or boundary defenses, and are charged with committing or preparing to commit sabotage, espionage, hostile or warlike acts, or violations of the law of war, shall be subject to the law of war and to the jurisdiction of military tribunals; and such persons shall not be privileged to seek any remedy or maintain any proceeding directly or indirectly, or to have any such remedy or proceeding sought on their behalf, in the courts of the United States, or of its States, territories and possessions, except under such regulations as the Attorney General, with the approval of the Secretary of War may from time to time prescribe."

This proclamation was issued by the President, under his authority as Commander in Chief of the Armed Forces.

SECRET

- 44 -

SECRET

connection with the Supreme Court decision in the saboteur case, Ex parte Quirin, supra p. 33. That case involved the right of enemy saboteurs, one of whom was an American citizen, to apply for a writ of habeas corpus instead of being tried by military commission under the proclamation. It was held that ordinary constitutional limitations do not impede the Federal government in its dealings with enemies, on the authority of Brown v. U. S., supra, p. 7; Miller v. U. S., 11 Wall. 268 (1870); Juragua Iron Co. v. U. S., 212 U. S. 297 (1908), and DeLacey v. U. S., supra p. 7. It was further held that the presidential power over armed aliens entering the country with hostile intent is absolute; that the Constitution recognizes the common law of war, citing Ex parte Vallandigham, 1 Wall. 243, 249 (1863), Winthrop, Military Law and Precedents (1920), 17, 41, 42, 773. A distinction (see pp. 26-27 supra) was made between lawful belligerents under the common law of war, embodied in Rule 9, Rules of Land Warfare, and Hague Convention, Art. I, Annex to Hague Convention, No. IV of October 18, 1907, Treaty Series No. 539, ratified 36 Stat. 2295, and unlawful belligerents under the Fifteenth Article of War. Congress and the President were held to possess together the power to wage war successfully, on authority of Homes Bldg. & Loan Ass'n. v. Blaisdell, 290 U. S. 398, 476 (1933). Since our own soldiers are subject to trial by Military Commission, under military law (A. W. 15, 30, 81, 82, 10 U. S. C. Sec. 1486, 1509, 1563, 1554) war criminals have no rights denied our own soldiers. As to the American citizen,

SECRET

SECRET

- 45 -

it was held that the law of war embraces citizens as well as aliens (whether enemy or not), civilians as well as soldiers. Winthrop, *Military Law and Precedents* (1920) 831-841; Wiener, *Manual of Martial Law* (1941), 137; Morgan, "Court Martial Jurisdiction over Nonmilitary persons under the Articles of War, 4 Minn. L. Div. 79, 109; 16 Op. Atty. Gen. 292 (1879); Ex parte Wildman, 29 Fed. Cas. 1232 (Kan. 1876). "Of all hostile acts, those by civilians are most dangerous." The citizen saboteur was held triable as an "enemy cobelligerent".

Under this sweeping decision there would be a question as to whether these aliens should not be turned over to the military authorities, not for the reasons they urge, but for the purpose of having them tried under military law. There should be little question of their being entitled to treatment as ordinary prisoners of war, even under the evidence now at the disposal of OSS. Persons otherwise entitled to the status of prisoners of war may forfeit the right by such acts as espionage, violation of parole, and war crimes. Flory, Op. Ct. supra, p. 32.

The war power of the national government comprehends all that is required to wage war successfully. Hirabayashi v. United States, 320 U. S. 81 (1943); Minoru Yasui v. U. S., supra p. 5; Schneller v. Drum, 51 Fed. Supp. 383 (S.D.N.Y. 1943); Korematsu v. U. S., 319 U. S. 439 (1943). These cases upheld the constitutionality of statutes barring certain classes of American citizens from certain designated military areas, and

SECRET

- 46 -

SECRET

Presidential proclamations issued thereunder. It should be noted that a recent lower court decision has refused to follow these cases in the absence of proof of actual espionage or sabotage. Scherzberg v. Maderia (U. S. D. C. E. Pa. 1944), 13 L.W. 2079. Nevertheless, on the authority of the Supreme Court cases there can be little doubt that the Presidential Proclamation issued under the Alien Enemy Act would be held to be valid exercise of his war power as Commander in Chief of the Armed Forces.

A question has been raised as to the right of the United States to confiscate the property of these aliens. At common law the property of alien enemies situated within the jurisdiction of a country at the outbreak of war becomes liable to confiscation by its sovereign. Brown v. U. S., supra p. 7; Miller v. U. S., 11 Wall. 266 (1870). A declaration of war does not, however, ipso facto operate as a confiscation of enemy property within the territory. Brown v. U. S., supra. And the modern policy is against confiscation. Hanger v. Abbott, supra p. 28, Caldwell v. Harding, 1 Lowell 326, 4 Fed. Cas. 2,302 (Mass. 1869); Jackson Ins. Co. v. Stewart, 13 Fed. Cas. No. 7, 152 (Md. 1866). The title of the enemy is good against all the world except the sovereign. Adventure, 8 Cranch 221 (1814). But whatever rights are given enemies are given as a matter of grace. Brandon, Ct. Cl. 559 (1911). Authority to seize enemy-owned property rests in Congress. Hamburg-American L. & Nav. Co. v. U. S., 277 U. S. 130 (1927). Congress

- 46 -

SECRET

Presidential proclamations issued thereunder. It should be noted that a recent lower court decision has refused to follow these cases in the absence of proof of actual espionage or sabotage. Scherzberg v. Maderia (U. S. D. C. E. Pa. 1944), 13 L.W. 2079. Nevertheless, on the authority of the Supreme Court cases there can be little doubt that the Presidential Proclamation issued under the Alien Enemy Act would be held to be valid exercise of his war power as Commander in Chief of the Armed Forces.

A question has been raised as to the right of the United States to confiscate the property of these aliens. At common law the property of alien enemies situated within the jurisdiction of a country at the outbreak of war becomes liable to confiscation by its Sovereign. Brown v. U. S., supra p. 7; Miller v. U. S., 11 Wall. 268 (1870). A declaration of war does not, however, ipso facto operate as a confiscation of enemy property within the territory. Brown v. U. S., supra. And the modern policy is against confiscation. Hanger v. Abbott, supra p. 28, Caldwell v. Harding, 1 Lowell 326, 4 Fed. Cas. 2,302 (Mass. 1869); Jackson Ins. Co. v. Stewart, 1 Hughes 310, 13 Fed. Cas. No. 7, 152 (Md. 1866). The title of the alien enemy is good against all the world except the sovereign. The Adventure, 8 Oranch 221 (1814). But whatever rights are granted enemies are given as a matter of grace. Brandon v. U. S., 46 Ct. Cl. 559 (1911). Authority to seize enemy-owned private property rests in Congress. Hamburg-American Line Terminal & Nav. Co. v. U. S., 277 U. S. 138 (1927). Congress

SECRET

SECRET

- 47 -

even in the case of property believed to be enemy-owned, so long as provision is made for compensation in case of mistake. Henkels v. Sutherland, 271 U. S. 298 (1926); Stoehr v. Wallace, 255 U. S. 239 (1921); Central Union Trust Co. of N. Y. v. Garvan, 254 U. S. 559 (1920). Under this authority Congress has provided for the seizure of alien enemy property by an Alien Property Custodian. By virtue of the Trading with the Enemy Act of October 6, 1947, 40 Stat. 411, 50 U.S.C.A. App. 1-31 and the First War Powers Act of 1941 (50 U.S.C.A. & 601-122) President Roosevelt issued Executive Order No. 9095 on March 11, 1942, 7 Fed. Reg. 1917, amended by EO 9193, July 6, 1942, 7 Fed. Reg. 5205 setting up the Office of Alien Property Custodian. The Alien Property Custodian has power to seize property determined by him to be enemy-owned, and vest such interest in himself. The Antoinetta (D. C. Pa. 1943) 49 Fed. Supp. 148. However, as to the money carried by Mr. and Mrs. K, according to Section 2(c) of Ex. Ord. 9095 the Alien Property Custodian can take over enemy-owned cash, bullion, moneys, currencies, deposits and credits only if necessary to safeguard other enemy-owned property. It may be that if the funds of Mr. and Mrs. K are the fruits of espionage activity for the enemy, this Government could confiscate the money under the law of war. But no statutory authority for such confiscation exists in this country and it is clear that under the Presidential Proclamation cited above, the funds of Mr. and Mrs. K cannot be confiscated or seized by the Alien Property Custodian. See 6 Hackworth Op.

SECRET

- 48 -

SECRET

Cit. Supra, pp. 189-237.

The assets undoubtedly will, however, be frozen until after the termination of hostilities, under EO 8389, April 10, 1940, 5 Fed. Reg. 2400 (1940), as amended under EO 8785, June 14, 1941. This Order, issued under Section 8(b) of the Trading with the Enemy Act of October 6, 1917 (40 Stat. 415), forbade payments by or to any banking institution in the United States of property belonging to German or Austrian nationals, and authorizing the Secretary of the Treasury to make regulations to carry out the purpose of the Order. The relevant section of the Trading with the Enemy Act was amended by Title III of the First War Powers Act of December 18, 1941 (50 U. S. C. A., Sec. 615) to authorize the President, among other things, to prohibit transactions involving the property of foreign nationals, through any agency, that he may designate. The same act, expressly approved and ratified EO 8389 and the regulations issued thereunder by the Secretary of the Treasury. On 18 March 1942, General Ruling No. 11 of the Treasury Department (7 Fed. Reg. 2891) declared unlawful all transactions involving trade with an "enemy national" unless licensed under freezing regulations. "Enemy national" is so defined as to include representatives or agents of the Governments of Germany, Italy, Japan, Bulgaria, Hungary or Romania. The reason that the Alien Property Custodian cannot sequester these funds is because they are frozen by the Foreign Funds Control Unit of the Treasury Department. The real line of division between the duties of

SECRET

SECRET

- 49 -

the Custodian and the Secretary of the Treasury is the practical one of whether the assets seized by the United States are passive assets--cash, moneys, etc.--or actual business enterprises or patents which can be put to use in the services of the war effort of the United States. 11 Geo. Wash. L. R. 357, 363. Under Sec. e(2) of the General Ruling No. 12 relating to Foreign Funds Control, the term "property" includes gold, silver, bullion, currency, coin, credit, checks, book credits, etc.

In this connection, it should be noted that if Mr. and Mrs. K claim the status of prisoners of war, their property cannot be seized. Their bank accounts could still be blocked, however, in the same fashion as any other alien enemy internee's.

III

Conclusions

It would seem that both Mr. and Mrs. K are now being legally detained, and are legally internable for the duration as enemy aliens. Mr. K can be interned as a denizen or citizen of Germany upon the facts available, and the burden is on him to rebut such facts by showing that he does not have enemy nationality. Mrs. K can be interned as a native of Romania, and possibly also as a citizen of Germany; the burden of rebutting proof is likewise upon her. Unless guilty of hostile acts such as espionage, both Mr. and Mrs. K have the right to raise the question of their citizenship by habeas corpus proceedings; they have no right, however, if they fail to disprove their alien enemy status, to question the determination of the Attorney General that they are in fact dangerous enemy aliens.

SECRET

- 80 -

SECRET

As internees, they would seem to be entitled to claim the treatment accorded prisoners of war, though they have not yet done so. There may be some question in this respect as to Mrs. K, as the United States has never promised to apply such treatment to Romanian nationals, but as a matter of policy it is probable that such treatment would be applied to her.

However, the evidence against Mr. and Mrs. K in the files of OSS is such as to raise a reasonable suspicion that they are guilty of having conspired to commit acts of espionage under the direction of a hostile power. In such a case, until cleared by a military tribunal they are not entitled to treatment as prisoners of war and are denied access to the Federal courts.

The only question remaining would appear to be whether they should be transferred to the military authorities for appropriate proceedings. This presumably will be decided by the Attorney General after he first determines whether they are dangerous aliens. All information in the possession of OSS should, of course, be made available to the Attorney General to enable him to make the proper disposition of the cases.

AD
Albert B. Dart.**SECRET**

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Files

FROM : Office of General Counsel

SUBJECT: Procedure for Internment of Enemy Aliens

DATE: 9 August 1944

The procedure adopted by the Department of Justice in dealing with cases of alien enemies interned by Presidential Proclamation is outlined in Department of Justice Circular No. 3616, Supplement 1, dated January 7, 1942, Supplement 2, dated January 9, 1942, Supplement 3, dated February 16, 1942, Supplement 4, dated April 5, 1942, and Circular No. 3669, Supplement 1, dated December 13, 1941, Supplement 2, dated December 17, 1941, and Supplement 3, dated December 27, 1941.

The procedure set up in accordance with the cited circulars is outlined in this memorandum.

One Alien Enemy Board has been set up in each judicial district, to consist of a chairman and two other members, all responsible citizens of the community, one of whom is an attorney. In congested districts a panel of eligible names has been set up, and in certain cases additional boards have been created. The oath of office is administered to members by any qualified official.

The cases are held, insofar as possible, in conformity with the order in which the aliens have been apprehended. The actual priority is determined by the relative date of completion of investigation, while preference is given in cases of hardship or other exceptional circumstances, including those where the United States Attorney recommends release.

A written notice of the hearing is forwarded to the alien sufficiently in advance for him to prepare such evidence as he may wish to get.

The hearing is held in the district of residence or apprehension of the alien, rather than in that of his temporary detainment. Certain special situations are provided for in the regulations.

The Files

- 2 -

9 August 1944

The Board may consider any facts submitted by the FBI before the actual hearing. If it desires to question the alien, he shall have an opportunity to present such witnesses, documents or other evidence as he may desire, subject to limitations imposed in the interest of administrative efficiency by the Board. Witnesses testifying on behalf of the alien are sworn in by members of the Board.

The alien may be accompanied by an advisor who may be an attorney but has no right to object to any proceedings and must be sworn in. A stenographic report is unnecessary but important testimony may be transcribed literally. A summary of the testimony is sufficient.

The documents are then submitted to the Attorney General. The file should include:

- (1) The notice of the hearing;
- (2) The report and recommendation of the Board;
- (3) The transcript and the summary of the testimony;
- (4) The FBI report;
- (5) The alien enemy questionnaire;
- (6) Any affidavits or letters filed in the proceedings;
- (7) Any other documents or papers included in the file.

The Board may make one of three recommendations:

- (1) Internment;
- (2) Parole;
- (3) Unconditional release.

The recommendation must be based upon the evidence. The record is sent to the Attorney General through the United States Attorney. The Immigration and Naturalization Service is authorized to supply any necessary translators.

The recommendation of internment is made when the alien is considered dangerous to the national safety. If he is considered harmless, a recommendation of release is made. In doubtful cases a recommendation of parole, with or without bond, under the obligation of reporting to a designated parole officer, is sufficient.

The Files

- 3 -

9 August 1944

The Immigration and Naturalization Service is charged with responsibility for the parole of the alien enemies. A Supervisor of Alien Enemy Parole has been appointed in its central office and a Chief District Parole Officer has been designated in each Immigration District to be assisted by such assistant district officers as may be required. Every paroled alien enemy must report semi-weekly or at some other interval designated by the Board, or directly by order of the Attorney General to a loyal United States citizen "sponsor" chosen by the Board. The alien's suggestion may be considered in the choice of the "sponsor". The "sponsor" must be in a position to observe the alien's movements independently and determine when changes in his parole conditions become necessary. The "sponsor" makes periodic reports at determined intervals to the District Parole Officer and reports violations, if any, of the parole conditions. The "sponsor" must sign a written statement accepting his undertaking. Any reasons for a change of "sponsor" are to be brought to the United States Attorney's attention.

The paroled alien must report weekly or at the Attorney General's direction to the District Parole Officer in person or in writing, as directed. Any violation of parole is reported to the United States Attorney and in extreme cases the Parole Officer may take the alien into custody. Parole may end, on order of the Attorney General, either by release or by further detention. The alien and the "sponsor" are both given written notice. Action taken will be reported to the central office, the United States Attorney and the local office of the FBI.

Forms for the detention of an alien by presidential warrant, a telegraphic report of emergency apprehension, notice of hearing, report and recommendation of the hearing board, and the order of the Attorney General as to the disposition of an alien enemy are available at the Alien Enemy Control Unit, Department of Justice.

A special hearing board has been set up for the rehearing of internecine cases. Cases may be referred to it either by the United States Attorney of the district where the case originates or by the Alien Enemy Control Unit of the Department of Justice. Instructions concerning rehearsals are set forth in Department of Justice

The Files

- 3 -

9 August 1944

The Immigration and Naturalization Service is charged with responsibility for the parole of the alien enemies. A Supervisor of Alien Enemy Parole has been appointed in its central office and a Chief District Parole Officer has been designated in each Immigration District to be assisted by such assistant district officers as may be required. Every paroled alien enemy must report semi-weekly or at some other interval designated by the Board, or directly by order of the Attorney General to a loyal United States citizen "sponsor" chosen by the Board. The alien's suggestion may be considered in the choice of the "sponsor". The "sponsor" must be in a position to observe the alien's movements independently and determine when changes in his parole conditions become necessary. The "sponsor" makes periodic reports at determined intervals to the District Parole Officer and reports violations, if any, of the parole conditions. The "sponsor" must sign a written statement accepting his undertaking. Any reasons for a change of "sponsor" are to be brought to the United States Attorney's attention.

The paroled alien must report weekly or at the Attorney General's direction to the District Parole Officer in person or in writing, as directed. Any violation of parole is reported to the United States Attorney and in extreme cases the Parole Officer may take the alien into custody. Parole may end, on order of the Attorney General, either by release or by further detention. The alien and the "sponsor" are both given written notice. Action taken will be reported to the central office, the United States Attorney and the local office of the FBI.

Forms for the detention of an alien by presidential warrant, a telegraphic report of emergency apprehension, notice of hearing, report and recommendation of the hearing board, and the order of the Attorney General as to the disposition of an alien enemy are available at the Alien Enemy Control Unit, Department of Justice.

A special hearing board has been set up for the rehearing of internecine cases. Cases may be referred to it either by the United States Attorney of the district where the case originates or by the Alien Enemy Control Unit of the Department of Justice. Instructions concerning rehearsals are set forth in Department of Justice

The Files

- 4 -

9 August 1944

Circular No. 5589, Supplement 15 dated August 10, 1943.
Other Department of Justice circulars contain instructions to boards concerning nature and weight of evidence, types of organizations suspected of subversive activities and similar matters.

Albert L. Dart

Albert L. Dart

13,631

Hall, Rodrick S.G.

11 September 1945

Mrs. Gertrude Merrill
108 East Avenue
South Norwalk, Connecticut

Dear Mrs. Merrill:

Prior to his departure for overseas Lieutenant Colonel W. G. Subling asked that we send you any information we should subsequently receive concerning the death of your son, Captain Rodrick S. G. Hall.

As Colonel Subling informed you, your son volunteered in the summer of 1944 for an extremely dangerous mission far behind the enemy lines in Northern Italy. His work was to give support and guidance to the Italian patriots in that area who were engaged in a gallant fight to liberate their country. He was dropped by parachute during August, and for the next six months despite the problems presented by an unfamiliar and difficult mountainous terrain, he carried on his mission with great success and resourcefulness.

On about 23 - 24 January 1945 your son was captured by the enemy in a forest near Cortina. Shortly thereafter he was moved to the Bolzano Concentration Camp. Here on 30 February he was killed, although the exact details of how he met death are unknown to us. According to the report we have received, the prison physician stated that Captain Hall was buried in a marked grave which is located at Field B, 1st Row, Grave 17, Resurrection Cemetery, Bolzano.

While there is a good deal of uncertainty about the facts surrounding your son's death, we do know that when captured he was in uniform and consequently entitled to treatment as a Prisoner of War in accordance with the provisions of the Geneva Convention. Our people are now at work to bring to justice those responsible for his execution.

As incomplete as these details are I feel that you are entitled to know them all and will, of course, notify you again if any additional information should be uncovered. In

- 2 -

the meantime it may perhaps be some consolation to know with what great bravery and courage your son devoted himself to the dangerous task entrusted to him. His loss is not only a great personal one to all those who knew him but an equally great loss to the nation he so gallantly served.

With deepest sympathy and respect,

Sincerely yours,

WILLIAM J. DONOVAN
Director

OFFICE OF STRATEGIC SERVICES
Washington, D.C.

1400, Release, S.C. 13, 131
CONFIDENTIAL

14 February 1960

MEMORANDUM

TO: **Mr. Lt. Frederick S. G. Hill, GS, O-1114160**
SUBJECT: **Orders**

1. You are hereby authorized and directed to proceed to Algiers, North Africa, where you will report to the Strategic Services Officer for the North African Theater of Operations. You are, thereafter, to act under the instructions of the Strategic Services Officer for the North African Theater.

G. EDWARD BUKTON
Acting Director

APPROVED:

James M. Pijlman
J. M. Pijlman
Deputy Director, SSO

William F. Davis, III
William F. Davis, III
Lt. Colonel, P.A.
Deputy Chief, SSO

Howard M. Chaplin
Howard M. Chaplin
Major, AMM
North African Theater Officer

Wichip

CONFIDENTIAL

SECRET

OFFICE OF STRATEGIC SERVICES

Washington, D. C.

28 January 1944.

MEMORANDUM FOR: Captain W. G. Hamilton

SUBJECT:

Permanent Duty Orders for Overseas Assignment

1.

You are authorized and directed to proceed to London, England, where you will report to the Strategic Services Officer, European Theater. You are, thereafter, to act under the instructions of the Strategic Services Officer for the European Theater.

G. Edward Burton
Acting Director

SECRET

APPROVED: *[Signature]*
Chief, EO
APPROVED: *[Signature]*
Deputy Director
APPROVED: *[Signature]*
Inspector of Liaison

OSS
Form 69 (Revised)

OFFICE OF STRATEGIC SERVICES

OFFICIAL DISPATCH

DATE December 30, 1944

RECEIVED December 30, 1944 6:22 PM

TO

TERMI, NEW DELET

PRIORITY

ROUTINE

DEFERRED

FROM

OFFICE OF STRATEGIC SERVICES

OUT 26546

DISTRIBUTION

(CONFIRMATION TO ORIGINATOR)

(FOR INFORMATION)

SECRETARIAT

DIRECTOR

U. S. GOVERNMENT PRINTING OFFICE 16-57855-1

SECRET

TRANSMITTED IN CODE OR CIPHER

#22054. For Colonel Coughlin.

SECRET

It is necessary for us to have an efficiency report for Colonel Robert B. Hall for the period from July to December of this year. Please prepare War Department AGO Form #67 on him at once. 109 is interested in this matter; hence you should let him read it first, and then pouch it to us at once.

SECRET

TUD: 12/30/44 9E12 7H

OJS EJP
INITIALS OF "RELEASING" OFFICER

IT IS FORBIDDEN TO COPY OR REPRODUCE THIS CABLE
WITHOUT AUTHORIZATION FROM THE SECRETARIAT

12. 8. 5 /
H. R. P. P. P.

24 December 1944

Colonel Robert B. Hall
270 Barton Shore Drive
Ann Arbor, Michigan

My dear Colonel:

Mr. Ruthven of the University of Michigan has written to us asking for your release from active duty.

I appreciate all you have done for us, and I should be sorry to have you go. I enclose a copy of my letter to Dr. Ruthven which expresses our appreciation of the work you have done for us and our hope that you may, in special tasks, be of further assistance.

Sincerely,

William J. Donovan
Director

12.8.57

Ala. C. I.

24 December 1944

Mr. Alexander G. Ruthven, President
University of Michigan
Ann Arbor, Michigan

My dear Dr. Ruthven:

I have your letter of 12 December suggesting the release of Colonel Robert B. Hall. I have discussed the matter with Colonel Hall and have approved his application to be transferred to inactive status.

I am grateful for your willingness to have Colonel Hall continue so long with us. We are very sorry to lose him as he has rendered very valuable advice and we hope that from time to time we may call upon him for important special tasks.

Thank you again for your help.

Sincerely,

William J. Donovan
Director

OSD FORM 4001a

Date 22 December 44To: General Donovan

We have consulted Dr. Langer with reference to the attached request from the president of the University of Michigan for the release of Colonel Hall from active duty. Dr. Langer states that he has no views on the subject, and accordingly believes that the decision should be made elsewhere.

We understand that you have conferred with Colonel Hall. If your decision is that Colonel Hall can be released, we shall draft an appropriate reply to the University of Michigan.



C. A. Bane

Office of the Secretariat

(9139)

12,857

HALL, COL. ROBERT B

UNIVERSITY OF MICHIGAN

ANN ARBOR

OFFICE OF THE PRESIDENT

December 12, 1944.

Major General William J. Donovan,
Office of Strategic Services,
Washington, D.C.

My dear General Donovan:

The University of Michigan finds it imperative to present to the Army and to the Office of Strategic Services a formal request for the release of Colonel Robert B. Hall from active duty by February 1, 1945.

The University realizes that no one in educational work can estimate the continuing need of army personnel. Several problems which have arisen at the University of Michigan make it necessary, however, that we regain the services of Colonel Hall at the earliest possible date. Veterans of this war are already returning to our campus, and the development of new programs of instruction is becoming daily more imperative. The University expects to undertake a broad intensive program in Far-Eastern affairs for both undergraduate and graduate students. Colonel Hall's field of specialization in geography, as well as his recent experience in China and India, make him the ideal person to place in charge of this development. This new type of program has many implications for the returning veterans and the responsibility placed upon the universities by the Congressional action in passing the "G.I. Bill of Rights" forces us to request the release of Colonel Hall as soon as is possible.

In addition to Colonel Hall's special qualifications, our need for additional staff is very pressing, since the staff now in Ann Arbor is fully occupied. It is for these reasons that the University is taking the initiative in this matter, with the hope that Colonel Hall may be released to us within the next few months.

Very truly yours,


Alexander G. Ruthven
President, University
of Michigan

R

OSS FORM 4001a

Date 5 December 44

To: General Donovan

In accordance with your request I have prepared letters for your signature to Colonel Hall and to Mr. Ramsdell of the University of Michigan, authorizing Colonel Hall to deliver a lecture at the University.

John W. Auchincloss
John W. Auchincloss
1st Lt.; JAGD

Office of the Secretariat

(P139)

12,857

Hall, Col. Robert B.

5 December 1944

Colonel Robert B. Hall
270 Barton Shore Drive
Ann Arbor, Michigan

My dear Colonel:

I have received a letter from Mr. W. F. Ramsdell, Director of the Civil Affairs Training School at the University of Michigan, requesting that you be authorized to deliver a lecture to the school on the subject of Japan and the Japanese.

I have replied to Mr. Ramsdell that I should be glad to have you do this, and I am now writing to say the same thing to you. I need hardly add that in the lecture you should not touch on OSS intelligence or pending OSS operations.

Sincerely,

William J. Donovan
Director

12,857
Hall, Col. P. C. B.

5 December 1944

Mr. W. F. Ramsdell, Director
Civil Affairs Training School
Rackham Building
Ann Arbor, Michigan

Dear Mr. Ramsdell:

I have your letter of 30 November 1944,
in which you ask that Colonel Hall may give a lec-
ture at the Civil Affairs Training School.

I should be glad to have Colonel Hall
speak at the school, and I have written him to that
effect. I hope the lecture will be helpful.

Sincerely,

William J. Donovan
Director

OAS FORM 7-0014

Date 2 Dec 44

To: General Donovan

Attached is a letter from the University of Michigan, stating that Colonel Hall, who is now on leave at And Arbor, be given permission to deliver a lecture to the university on the subject of Japan.

Mr. Langer has been asked to prepare a reply for your information and, if permission is to be given, a letter to Colonel Hall.

John W. (unclear)
John W. (unclear)
Act Sec. (unclear)

my yes

Office of the Secretariat

(9139)

12, 85
Hall, Col. Robert B.

UNIVERSITY OF MICHIGAN
CIVIL AFFAIRS TRAINING SCHOOL
RACKHAM BUILDING
ANN ARBOR, MICHIGAN

30 November 1944

Major General William J. Donovan
Director, Office of Strategic Services
25th and E Streets
Washington, D. C.

Dear General Donovan:

The University of Michigan is among the schools engaged under contract with the Training Division, FMGO, in training Army and Navy officers for military government duties in Japan. We have 121 officers in such training here at the present time.

We feel it our duty to give these officers the very best available instruction and bring in many outside experts to supplement the lectures and consultations of members of the present University staff. You may recall that Colonel Robert B. Hall of your organization is on leave from the University of Michigan faculty and that for many years Colonel Hall has specialized in the geography and other aspects of Japan. Colonel Hall is now on leave at his home, 270 Barton Shore Drive, Ann Arbor, Michigan; and, while here, we are particularly anxious to secure the necessary permission so that he may appear before our School. His lecture would deal with Japan and the Japanese, and in nowise with the Chinese situation or South China. Colonel Hall is willing to make the one appearance before the School if approval is granted. As you know, there are all too few people available who are qualified to contribute as can Colonel Hall to our training program, and we are most anxious to take advantage of his temporary presence in Ann Arbor.

May I ask you to give every favorable consideration to this request and to please inform Colonel Hall direct at his home.

Very sincerely yours,

W. F. Ramdell
W. F. Ramdell
Director

WFR:rp

088 Form 4101

Date 11/21

To: General

Perhaps you would want to
speak with Colonel Coughlin about
Colonel Hall's Army 201 file.

EJP

Office of the Executive Officer

(30449)

12,557 ~
Hall, Col. Robert B.

CONFIDENTIAL

HEADQUARTERS
Office of Strategic Services
China and India Burma Theaters
APO 885

3 November 1944

SUBJECT: Theater Service Record (OSS Form No. 809).

TO : Director, OSS, Washington, D. C. (Att: FE Theater Officer).

Forwarded herewith is OSS Form No. 809 (Theater Service Record) on Robert B. Hall, Colonel, AUS.

For the Commanding Officer:

R. C. Irwin
R. C. IRWIN,
1st Lt., AGD,
Adjutant.

1 Incl:
Form 809 re Hall

cc: Lt.Col. Roberts (PPB)

CONFIDENTIAL

CONFIDENTIAL

THEATER SERVICE RECORD

DATE 31 October 1944

1. NAME ROBERT BURNETT HALL 6. THEATER CBI COLONEL INDIS.
BRANCH FORM G COMBAT
2. GRADE Colonel 7. LENGTH OF SERVICE 11 months
IN THEATER
3. SERIAL NO. O-511957 8. PROCURED Civilian U.S. Yes THEATER
4. DATE OF BIRTH 18 July 1896 9. COMMENT OF THEATER None
SECURITY OFFICER
5. PHYSICAL CONDITION Excellent

10. EDUCATION Ph D
11. LANGUAGE Spanish, some German, French, Japanese
12. SPECIAL SKILL Knowledge of Japan, Cartography, Editor, Author
13. PRINCIPAL CIVILIAN EXPERIENCE Field Research, Japanese Empire.
14. MILITARY OR NAVAL EXPERIENCE PRIOR TO OSS U.S. Army Mexican Border and A.E.F.

15. RECORD OF SERVICE WITH OSS

Dates	Branch	Grade or Rank	Duty
1/26/43		Civilian	Director, Pacific Coast, OSS
3/19/43			
6/20/43			Same
10/4/43		Lt. Colonel	
10/4/43			
6/10/44		Lt. Colonel	Director of R&A, SI, X-2
6/10/44			
9/4/44		Lt. Colonel	DDIS OSS CBI
9/4/44		Colonel - 1 -	Commanding Officer, Det. 202
10/29/44			

CONFIDENTIAL

OSS FORM 809

CONFIDENTIAL

16. Rating

Superior

Excellent

Very Satisfactory

Satisfactory

Unsatisfactory

MOTIVATION, energy, effort, initiative, interest in assignment.					X
PRACTICAL INTELLIGENCE, speed and accuracy of judgment, resourcefulness in solving problems.		X			
STABILITY, emotional control and maturity, absence of nervous symptoms.			X		
ABILITY TO WORK WITH OTHERS, teamwork, tact, absence of annoying traits.					X
LEADERSHIP, organizing ability, ability to win cooperation.					X
PHYSICAL ABILITY, agility, daring, ruggedness, stamina.			X		

17. REMARKS (Be sure to record outstanding accomplishments and weaknesses) Deciding factor in getting Lt. Col. Smith to join OSS. This act had an important bearing on the formation of ACPRTS and the contribution this unit made. He has strong likes and dislikes; a decided tendency to have favorites which adversely affects the morale of those not classed as favorites. He is not a team player and has no appreciation of use of staff. He drinks too much and sets a dangerous example to other members of his staff.

18. COMPLETE REASONS FOR RETURN TO U.S. Adverse effect on morale of his organization. No appreciation of OSS mission to serve Theater Commander. Inability to use a staff, making false promises and playing favorites; drinking too much. He is clever, roxy and interested far more in Hall, his comforts and friends than in the organization and the war. His motivation is wrong.

19. RECOMMENDATIONS (a) Do you recommend his further use in OSS? NO

(b) If no, in what capacity? _____

20. PAPERS ACCOMPANYING OFFICER (never to include this Form)

1. WDAGO Form No. 86-1
2. 4.
3. 5.
4. 6.

21. PAPERS BEING POUCHED TO U.S. - OSS (Including this Form)

1. 4.
2. 5.
3. 6.

PREPARED BY: John J. Connelley

(Man's immediate superior) JOHN O. CONNELLEY,
Colonel, Inf.

BRANCH CHIEF _____

PERSONNEL OFFICER _____

CONFIDENTIAL

CONFIDENTIAL**THEATER SERVICE RECORD**DATE 31 October 1944

1. NAME ROBERT BURNETT HALL 6. THEATER OBI BRANCH DDIS
 2. GRADE Colonel 7. LENGTH OF SERVICE 11 months
 IN THEATER
 3. SERIAL NO. O-111027 8. PROCURED Civilian U.S. Yes THEATER
 4. DATE OF BIRTH 10 July 1896 9. COMMENT OF THEATER None
 5. PHYSICAL CONDITION Excellent SECURITY OFFICER

10. EDUCATION Ph.D.
 11. LANGUAGE Spanish, some German, French, Japanese
 12. SPECIAL SKILL Knowledge of Japan, Cartography, Editor, Author
 13. PRINCIPAL CIVILIAN EXPERIENCE Field Research, Japanese Empire
 14. MILITARY OR NAVAL EXPERIENCE PRIOR TO OSS U.S. Army Mexican Border and A.E.F.

15. RECORD OF SERVICE WITH OSS

Dates	Branch	Grade or Rank	Duty
1/29/43		Civilian	Director, Pacific Coast, OSS
6/20/43		Lt. Colonel	None
10/4/43		Lt. Colonel	Director of RMA, BI, Km2
6/10/44		Lt. Colonel	DDIS OSS OBI
9/4/44		Colonel	Commanding Officer, Det. 202

CONFIDENTIAL

OSS FORM 100

CONFIDENTIAL

HEADQUARTERS
Office of Strategic Services
China and India Burma Theaters
APO 885

3 November 1944

SUBJECT: Theater Service Record (OSS Form No. 809).

TO : Director, OSS, Washington, D. C. (Att: FE Theater Officer).

Forwarded herewith is OSS Form No. 809 (Theater Service Record) on Robert H. Hall, Colonel, AUS.

For the Commanding Officer:

1 Incl:
Form 809 re Hall

cc: Lt.Col. Roberts (PFB)

H. G. IRWIN,
1st Lt., AGD,
Adjutant.

CONFIDENTIAL

10,447
CONFIDENTIAL

Hall, Thomas R.

OFFICE OF STRATEGIC SERVICES**INTEROFFICE MEMO**

TO: Mr. Charles S. Cheston
 VIA: Dr. William L. Langer
 FROM: G.T. Robinson *gtr*

DATE: 23 June 1945

SUBJECT: Proposed cable to General Donovan from Mr. Cheston, Dr. Langer
 and G.T. Robinson regarding Major Thomas R. Hall

In November 1944, General Donovan selected Major Thomas R. Hall for duty as Russian Liaison Officer for the OSS Mission to Germany. At that time, the following qualifications of Major Hall had been presented for General Donovan's consideration:

1. A conversational, reading, and writing knowledge of Russian.
2. A conversational and reading knowledge of German.
3. An experience of 30 months in OSS. Of this experience, 16 months were as Chief of the USSR Division/REA Outpost in London, a position which demanded a constant and thorough knowledge of Russian affairs and a regular, though not constant, practice in speaking the Russian language. During the 14 months prior to Major Hall's assignment to London, he was engaged in political analysis in the USSR Division/REA in Washington.

4. Travel and study in Czechoslovakia, Yugoslavia, France, and England, from November 1937 to October 1938.

5. Education:

B.A. George Washington University, 1933

M.A. George Washington University, 1934

Ph.D. (Russian History)

University of Chicago, 1942

Following General Donovan's selection of Major Hall for the German assignment, and pending the defeat and occupation of Germany, it was decided to send Major Hall to SOFPO for an REA assignment in Hungary, where he would gain additional experience in dealing with Russians and Russian problems, as preparation for his work in Germany. It is greatly to Major Hall's credit that, although the REA team was never able to enter Hungary, Hall made persistent and successful efforts to come into contact with official Russians in Italy. On several occasions, Major Hall acted as negotiator and interpreter in the conduct of official business with representatives of the Soviet government. A first-hand report of some of these negotiations by a disinterested observer, Captain Richard V. Burks, indicates that Hall conducted himself personably and effectively toward the Russians. To the best of my knowledge, all of the negotiations in which Hall participated were successful, and in at least two instances led to subsequent social exchange.

3014 (out 1, 16, 4) to London 11/1/45
 3014 (out 1, 16, 4) for London 11/1/45

CONFIDENTIAL

CONFIDENTIAL

- 2 -

In April it was learned in this office that Colonel Charles Thayer had been appointed in place of Major Hall as Russian Liaison Officer for the OSS Germany Mission. With a subsequent assignment of Colonel Thayer as Chief of the OSS Mission for Austria, it is our understanding that the Russian liaison post for Germany is again unfilled.

It is evident that Major Hall in the past six months has increased his qualifications for this position, and it is the intent of the attached cable to ensure a thorough cognizance of these qualifications by General Donovan

CONFIDENTIAL

In reply refer to
File & Ser. No.

OSS/3235
LBF:peh

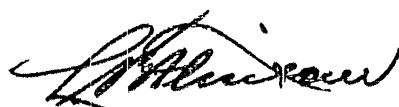
**OFFICE OF STRATEGIC SERVICES
NAVAL COMMAND**

WASHINGTON, D.C.

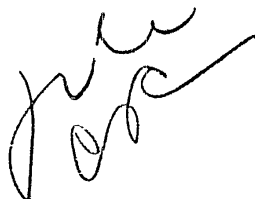
27 July 1945.

From: Commanding Officer, Naval Command
To: Acting Director.
Subject: Commander Roger Davis Halliwell, USNR,
Recommendation for promotion.

1. Attached is a copy of the rejection on the recommendation for promotion of Commander Halliwell to the rank of Captain. The original of the letter has been placed in the Naval Command files.



L. B. FLINTOM,
Lieut., USNR,
By direction.



In reply refer to
Serial and No.

089/0255
1041505

OFFICE OF STRATEGIC SERVICES
NAVAL COMMAND
WASHINGTON, D.C.

9.2.10
Halliwell

27 July 1948.

From: Commanding Officer, Naval Command
To: Acting Director.
Subject: Commander Roger Davis Halliwell, USNR,
Recommendation for promotion.

1. Attached is a copy of the rejection on the recommendation for promotion of Commander Halliwell to the rank of Captain. The original of the letter has been placed in the Naval Command files.

L. B. FLINTON,
Lieut., USNR,
By direction.

53656
Ltr 12112-P2

9.370
Halliwell

24 JUL 1945

CONFIDENTIAL

From: BuPers.
To: CO, Naval Command, OES, Washington, D. C.
Via: Director of Strategic Services.
Subj: Commander Roger Davis HALLIWELL, (S), U.S.N.R. -
Recommendation for promotion of.

Refs: (a) Your conf. ltr. BuPers/2952, LBF:jcc, (53656), dated
16 May 1945, with endorsements.
(b) BuPers Cir. Ltr. 95-44.

1. Your recommendation for the temporary promotion of Commander Halliwell was submitted to the Special Board convened by the Secretary of the Navy to consider all such recommendations, in accordance with the provisions of paragraph 12 of reference (b).

2. Since Commander Halliwell did not receive the unanimous approval of this Board, his promotion to Captain cannot be recommended at this time.

3. Reference (a) has been made a part of the subject officer's official record where it will be available for review by such board as may be convened to consider for temporary promotion officers of similar length of active service in rank.

By direction of Chief of Naval Personnel.

J. A. WINFREY,
Capt., U.S.N.,
Officer Performance Division.

To: ~~Mr. Tamm~~ ~~Mr. Tamm~~ ~~Mr. Tamm~~
 025
 9,370

The General agreed
 That we should get
 a regular naval
 officer for the post
 who preferably knew
 if we can bring it
 to close up Pearl Harbor
 Capt. Armon is getting
 out of the service at

Director's Office
 Comb. Activities has
 (3308) transferred to Special Projects
 Case

JSS Form 4191

Date 28 JulyTo: LIEUT. THERON

You might ask Mr. Cheston whether he thinks Capt. Armour or Comdr. Atwater would be suitable, at least for the time being.

CCD
C. C. D., Jr.

Loop

Office of the Executive Officer

(30449)

JSS Form 4191

Date

Col Doering

Gen. D. doesn't want to send a replacement until he surveys the situation personally -

Your further comments solicited - I'll show reply, if ~~OK~~ OK with you

edg

Office of the Executive Officer

(30449)

9,370

19th July 45

Halfpenny, N. Daria

Dear Ned, -

News that the General has consented to relieve me I would be most grateful if you and Ollie Daring did everything possible to have my relief sent out with all possible speed.

Not only do I feel that I can no longer be useful here but in addition and of considerable importance to me personally is the urgent necessity of my getting back to attend some directors meetings in New York in August (probably mid Aug) of real importance to my business interests which have been too long neglected

G. A. S. 7/20/45

and I expect you report letter from Mrs Cooke
rapidly developing into a little duty work at
the cross roads.

Any good sound fellow qualified by
a ~~successful~~ record in business, law, etc etc
can carry on — and who knows, may
be able to get much more done than I
have been able to accomplish in the past
year plus.

Sorry to bother you + Ellie but I hope
you will forgive me in spite of the
fact I know you are going full blast
about 4 1/2 hours every day.

Dave (Hallam etc)

OFFICE OF STRATEGIC SERVICES
HONOLULU, T. H.

7370

W. H. Hill

able sent
7/14

man of the
H. H. Hill

Dear General Donovan —

I am now more convinced than ever
that a continuance of my stay here will contribute
little or nothing to the country, to the agency
to you personally.

The repeated efforts to secure approvals of
the plans for our people, and of aid to the navy
and the army in the Pacific have continued to
demonstrate that they are even more strenuous
results than was reported to you in my first
objective report almost twelve months ago —
when the plan worked out by Dr. Howell, Capt. B. Hill
and the writer was later revised and the results
known to you.

OFFICE OF STRATEGIC SERVICES
HONOLULU, T. H.

Dear General Donovan

cable sent
7/14

9370
Haitian 11
man of S. mail
HWA for
W-DS
cre

I am now more convinced than ever
that a continuance of my stay here will contribute
little or nothing to the country, to the agency or
to you personally.

The repeated efforts to secure approvals of
the plans for our people to be of aid to the navy
and the army in the Pacific have continued to
demonstrate that they are even more sterile of
results than was reported to you in my first
objective report almost twelve months ago —
when the plan worked out by Dr Hobell, Capt T.B. Hill
and the writer was later repudiated by persons
known to you.

TOP SECRET
DIRECTION OF POLICE

2d

For the above reason as well as the many and evident other reasons with which you are familiar it is requested that I be allowed to take advantage of your already expressed approval of releasing me and I will be indebted to you if this action is taken at your earliest convenience.

It is my desire to return to the mainland as soon as my relief can be provided and there secure your approval of what ever next step appears to be helpful and justifiable.

Respectfully

Thos. Callahan

Major General William Donovan
Washington D.C.

20 June 1945

OSS FORM 4001a

Date

16 May 85

To:

General DonovanRe: Promotion of
Commander Halhewell1. For your approval
and signature.2. Recommendation
was drafted pursuant
to instructions of
Executive Office.
The OSS Board of Officers
have been informed
that the recommendation
was being processed. Col.

Box gave clearance.

Office of the Secretariat

Peter F. Fugher
Captain, A & LS

(9139)

71,3710
CONFIDENTIAL

Halliwells, R. Davis

Ref: 1 on CO, NavOps, ONS 122
 Bureau/2000 LEFices (35655)

16 May 1945

From: The Director of Strategic Services
 To: The Chief of Naval Personnel.
 Subject: Commander Roger D. HALLIWELL, D-V(8) USNR
 Recommendation for Promotion to Captain.

1. Forwarded.

2. I concur in the recommendation for the promotion of Commander Halliwell to the rank of Captain. During the period he has been with this Agency he at all times has performed his duties in a superior manner. In his present capacity as Strategic Services Officer, FOA, he represents the Office of Strategic Services with CINCPAC and high ranking Army officers within that theater and exercises supervision over all OSS activities there. In view of the rapidly increasing importance of his position it is believed that promotion to the rank of Captain will materially assist him to discharge effectively his duties and responsibilities as Strategic Services Officer.

3. Commander Halliwell has had a considerable amount of military and Naval experience, having served in the French Army overseas from 1915 to 1917, transferring to the U. S. Navy upon the entry of the United States in World War I. He served as an Ensign with the Navy until 1919, and continued in the Naval Reserve until 1925. He holds the Victory Medal, the Croix de Guerre, and other foreign decorations for his service in World War I.

4. It is strongly recommended that subject officer be given a spot promotion to the rank of Captain.

WILLIAM J. DONOVAN
 Maj Gen, USA

CONFIDENTIAL

CONFIDENTIAL**OFFICE OF STRATEGIC SERVICES****NAVAL COMMAND**

WASHINGTON, D.C.

10 May 1946

In reply refer to
Serial and No.Barers, 2222
LNP:jcc
(22026)

From: Commanding Officer.
 To: Chief of Naval Personnel.
 Via: The Director of Strategic Services.

Subj: Commander Roger D. HALLIWELL, D-V(8) USNR
 Recommendation for Promotion to Captain.

1. Subject officer entered on active duty with this Command on 10 February 1943 as a Lieutenant Commander, and was promoted to the temporary grade of Commander as of 8 September 1943. This promotion was confirmed with date of rank as of 1 February 1944.

2. Since 1 January 1944, Commander Halliwell has been special assistant to the Director of Strategic Services, and is presently in charge of OSS activities in the Pacific area with headquarters in Hawaii. He has performed the many duties of his office in a superior manner. He has represented the Director of Strategic Services on important policy matters in conferences with CINCPAC and other high ranking Navy and Army officers.

3. For approximately three years Navy and Army installations in Honolulu have been serviced by our Research and Analysis Unit which has furnished several hundred special reports, maps and special publications to the Navy alone. In addition, intelligence collected by this agency in contiguous theaters which has a bearing on POA has been made available to CINCPAC through Commander Halliwell. Principally through Commander Halliwell's efforts groundwork for future OSS activity in the Pacific area has been carefully laid.

4. Now that full scale Allied activity against Japan and the Japanese-occupied islands is imminent, it is expected that OSS will be requested to increase materially its activities within such areas. COMINOPAC and CINCPAC have approved the plan for OSS subversive radio broadcasts against Japan based on Taiwan. This plan is now being implemented by OSS personnel on that island. Likewise approval has been given for the assignment of OSS representatives with the Fourth Army. All current OSS activities as well as all those proposed within POA are carried on under the over-all supervision of Commander Halliwell.

5. In view of the increasing importance of the position occupied by subject officer, it is believed that his advancement to the next higher grade would be commensurate with the duties and responsibilities which have been assigned him. It is therefore recommended that Commander Halliwell be granted a spot promotion to the rank of Captain.

H. S. MORGAN
 Commander USNR
 Acting.

CONFIDENTIAL

9,370
Halliwell, R Davis

NAVAL COMMAND
OFFICE OF STRATEGIC SERVICES

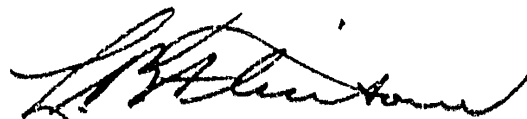
WASHINGTON, D. C.

15 March 1945.

IN REPLY REFER TO
INITIALS AND NO.

From: Commanding Officer.
To: Director of Strategic Services.
Via: Deputy Director of Personnel, OSS.
Subj: Commander R. Davis Halliwell, USNR - Promotion of.
Encl: (A) Ltr from subject officer.

1. Enclosure (A) addressed to the Director, OSS inquires about the status of the subject officer relative to his temporary rank of Commander.
2. BuPers Circular Letter No. 372-44 dated 9 December 1944 confirms the subject officer in his rank of Commander, U. S. Naval Reserve for temporary service. This Command sent this information to the subject officer on 5 January 1945 and apparently he has not received this information at the time of his recent letter. A copy of the letter with the acknowledgement form is enclosed.
3. This Command feels it would be advisable to send a duplicate set of acknowledgement forms to the subject officer for his completion and return to the Naval Command.



L. B. FLINTOM,
Lieut., U.S.N.R.
By direction.

3/20 This has been
taken care of.
DGS.

NAVAL COMMAND

OFFICE OF STRATEGIC SERVICES

WASHINGTON, D.C.

5 January 1944.

From: Commanding Officer,
 To: Commander Roger D. Halliwell, S(1), USNR.
 Subject: Temporary promotion to rank of Commander, USNR - Data re:
 Ref: (1) BuPers Circular Letter No. 372-44.

1. Reference (a) confirms your "Spot Promotion" to the rank of Commander, U. S. Naval Reserve. Your new date of rank for temporary service is 1 February 1944. The enclosed forms are to be completed, the original to be returned to this Command and two certified copies to be furnished to the Disbursing Officer carrying your accounts.

2. In the event that you have been previously notified of this appointment by the Commandant, Fourteenth Naval District, disregard this notice.

Alexander G. Liggett,
 Lt. Comdr., U.S.N.R.
 By direction.

ACKNOWLEDGMENT OF NOTICE OF TEMPORARY APPOINTMENT

9370

(Date)

From: Commander Roger D. Halliwell, S(T), USNRTo: Chief of Naval PersonnelVia: Commanding Officer, Naval Command, OSS.

1. I acknowledge receipt of notice of appointment to the rank of Commander in the Naval Reserve for temporary service made by the President on 9 December 1944.
2. Notice of this temporary appointment was made by my reporting senior pursuant to the authority contained in (ADNAV-1000) BuPers Circular Letter No. 572-44. My BuPers file number is 33050.
3. This temporary appointment has not and will not be declined by me. I hereby certify that appointment to the above rank has not been previously withheld for any reason.
4. Two (2) certified copies of this letter are being furnished by me to the Disbursing Officer carrying my accounts.

(signature)

FIRST ENDORSEMENT

Office of Strategic Services,
Washington, D.C.

From: Commanding Officer, Naval Command.
 To: Chief of Naval Personnel.

1. Forwarded

W Flintoni

WJD. says we
must see there's
no "injustice"
done. Will
you kindly look
at + advise
me. Thanks

M. J. M.
14

9, 370
Helliwell, R. D. M. M.

*Copy to
S. L. H. H. H.
App. Bureau*

OFFICE OF STRATEGIC SERVICES
HONOLULU I. T. H.

INTEROFFICE MEMO

DATE: 7 March 1945

TO: Maj. Gen. William J. Donovan
The Director - Office of Strategic Services

FROM: R. Davis Helliwell, Comdr., USNR

SUBJECT: Rank

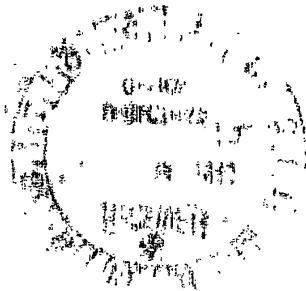
As you suggested, I enclose herewith copy of original appointment to the rank of Commander dated 14 September 1943 and the revised appointment under date of 1 September 1944.

The latter probably originated from two situations, viz., (a) the fact that the BuPers did not recognize that my assignment here was "Duty in the Office of Strategic Services, and/or (b) possibly the recommendation you made through Mr. Cheston to the Navy Department that my rank be increased.

As I understand the appointment of 1 September 1944, I revert to a lower rank when I move out of the 14th Naval District.



Enclosures (2)



9,375

OFFICE OF STRATEGIC SERVICES
HONOLULU, T. H.

INTEROFFICE MEMO

DATE: 7 March 1944

TO: Maj. Gen. William J. Donovan
The Director - Office of Strategic Services

FROM: R. Davis Halliwell, Comdr., USNR

SUBJECT: Rank

As you suggested, I enclose herewith copy of original appointment to the rank of Commander dated 14 September 1943 and the revised appointment under date of 1 September 1944.

The latter probably originated from two situations, viz., (a) the fact that the Navy did not recognize that my assignment here was "full" in the Office of Strategic Services, and/or (b) possibly the recommendation you made through Mr. Croston to the Navy Department that my rank be increased.

As I understood the appointment of 1 September 1944, I revert to a lower rank when I move out of the 14th Naval District.

Enclosures (2)

Address Reply to
The Secretary of the Navy
and refer to Initials
and No. 53656 1,370

NAVY DEPARTMENT

WASHINGTON

To: Commanding Officer, U.S.N.R.
Via: The Secretary of the Navy
Subject: [illegible]
Reference: [illegible]
Office of [illegible]
U.S. [illegible]
[illegible]

1. Pursuant to the order of the President of the United States

for temporary service in the Navy, to rank from [illegible]

2. By [illegible] declined, is requested the date of the [illegible] The date of [illegible] of establishing [illegible]

3. [illegible] minated and you [illegible] the date of your [illegible]

End-1

From: The Commanding Officer
To: Commander Roger Davis Hall

1. Delivered [illegible]

Certified True Copy

R. Davis Hall

9,370

33416

Form 3011-10K/TM

1 SEP 1944

To: **Commander James Davis HALLIDAY, D-4(s), U.S.N.M.**

Via: **The Commandant, FOURTEENTH Naval District.**

Subj: **Reappointment to the rank of Commander to rank from 5 September, 1943.**

Refs: (a) Act of Congress approved 24 July, 1941 (U.S. Code (Supp. 1), Title 34, Secs. 350 - 350j).
(b) Section 8, Act of Congress approved 30 June, 1942 (Public No. 639 - 77th Congress).

1. Pursuant to the provisions of reference (a), the President of the United States appoints you a

Commander

in the Naval Reserve of the United States Navy for temporary service, to rank from the **5th day of September, 1943**. This appointment supersedes the appointment dated **5 September, 1943**, and becomes effective upon the date of your detachment from duty in the Office of Strategic Services.

2. By reference (b), this appointment, unless expressly declined, is regarded for all purposes as having been accepted on the date of this letter, without formal acceptance or oath of office. The date of rank stated in this appointment is for the purpose only of establishing your order of precedence.

3. Acknowledgment of receipt is requested.

4. This appointment will be regarded as having been terminated and you will revert to your permanent rank effective upon the date of your detachment from duty under the Commandant, Fourteenth Naval District, as Strategic Services Officer.

For the President:

James Forrestal

Secretary of the Navy.

"COPY FOR DISBURSING OFFICER"

NAVJAG 17724

9. 375
~~SECRET~~

20 August 1944

MEMORANDUM FOR COMMANDER R. DAVIS HALLIWELL

SUBJECT: Orders

REFERENCE: a. Letter Director of Strategic Services to Admiral Nimitz, dated 27 Apr 44;
 b. Letter Admiral Nimitz to Director of Strategic Services, dated 3 May 44.
 c. Memorandum to JCS from Director, Subj: Approval of OSS Activities in the Pacific Ocean Area, dated 28 August 1944.

1. You are hereby authorized and directed to proceed to Honolulu, T. H., in accordance with your Naval orders where you will assume your duties as Strategic Services Officer, Pacific Ocean Areas with headquarters at Honolulu, T. H. You are authorized to stop at such intermediate points, to make such substitutions and omissions in your itinerary, and to travel to such places within your Command area as may be necessary or appropriate to the proper execution of your orders.

2. In your capacity as Strategic Services Officer, P.O.A., you will be in charge of all OSS activities and installations within the Pacific Ocean Areas in accord with the principles outlined in the exchange of correspondence between General Donovan and Admiral Nimitz (references a and b) and as may be authorized by the Joint Chiefs of Staff in their reply to reference b. In such capacity you will be directly responsible to the Director of Strategic Services. You will maintain direct communication with OSS Washington and OSS San Francisco, as well as with OSS headquarters in any appropriate Theater of Operation.

3. You have full authority to confer and, where necessary, to negotiate on behalf of this Agency with American, British and other Allied military, naval

SECRET

SECRET

Commander R. Davis Malliwell
30 August 1944, contd.

and civilian authorities with reference to operations of OSS within the Pacific Ocean Area. However, in the case of agreements entered into on behalf of OSS requiring the concurrence of the Director of Strategic Services, such agreements will be referred to the Director for approval.

4. You are hereby appointed the OSS liaison officer with CINCPAC, and, if desirable, you are authorized to indorse your orders to that effect.

5. Authority is hereby granted to you in accordance with your Naval orders to carry such classified documents as may be necessary to the proper performance of your mission. Those documents may be shown to persons to whom you have been authorized to show them, but must remain in your possession at all times until they are delivered to their addressees, if any.

Charles S. Cheston
Acting Director

SECRET

FOR GENERAL DONOVAN'S EYES

81370

Halliwell, Cmdr. R.D.

Mr. Charles Cheston

11 August 1944

Lt. Putzell

Commander R. D. Halliwell

You will recall that yesterday I told you that General Donovan desires that steps be taken to request the promotion of Commander Halliwell to Captain in the U.S. Naval Reserve. The General asked me particularly to request you to do whatever you can to obtain a careful consideration of the request by the Bureau of Naval Personnel.

In accordance with your instructions, I am having the necessary papers prepared to submit the General's request for promotion of Commander Halliwell to our Board of Officers and will inform you immediately of the Board's decision.

E. J. PUTZELL,
Lt. (jg) USNR.

CONFIDENTIAL

Halliwel R. J. Am. S.
 X heavy photo
CONFIDENTIAL

17 August 1944

SUBJECT: Temporary Promotion of Commander Roger D. Halliwel, D-V(S), USNR, to Grade of Captain

REFERENCE: Commanding Officer, Naval Command

TO: Board of Officers

1. It is requested that consideration be given to the promotion of Commander Roger D. Halliwel, D-V(S), USNR, to the grade of Captain.

2. Commander Halliwel has had considerable military experience over the past thirty years. He was with Penn Field Artillery from 1914 to 1916. He served in the French Army overseas from 1916 to 1917 being assigned to the 11th Division of the 90th Army Corps. Upon entry of U.S. into World War I he transferred to the Navy and served as an Ensign until 1919. After the war he continued as a member of the Naval Reserve until 1926. Among the decorations which he now holds are: the Victory Medal, the Croix de Guerre and other foreign decorations.

3. During the present war Commander Halliwel was commissioned a Lieutenant Commander in the Naval Reserve with date of rank as of 4 January 1943 and has been continuously on active duty with ONS since then. At present he holds the temporary grade of Commander with date of rank as of 8 September 1943.

4. Since 1 January 1944 Commander Halliwel has been Special Assistant to the Director and is now in charge of ONS activities in the Pacific area with headquarters in Hawaii. His duties in this capacity have been performed in a superior manner. Principally through his efforts groundwork for future ONS activity in the Pacific area has been carefully laid.

5. Now that full-scale Allied activity against Japan and the Japanese-occupied islands appear imminent, it is expected that ONS will be requested to increase

CONFIDENTIAL

CONFIDENTIAL

THE UNIVERSITY OF CHICAGO PRESS

materially the activities within such areas. In anticipation of this request, it is believed that the OIA representative in that area should hold a grade commensurate with the increasing responsibilities of his position.

6. Upon the basis of the foregoing considerations, it is desirable that this Agency recommend that Commander be promoted to the temporary grade of Captain.

7. This recommendation is furnished the Board at the direction of General Donovan.

O. Edward Huston
Acting Director

Conclusions

W. H. Harrison, Jr. 9370
X. H. Harrison, Jr.

February 12, 1944

TO: Captain Ward P. Davis, USN
 Chief, Naval Command

FROM: Commander E. Davis Halliwell, USNR

SUBJECT: Orders for Movement into Southwest Pacific Area.

In accord with General Donovan's instructions to me, it would be appreciated if you will have BuPers issue no orders covering the following:

*Subject: Temporary Additional Duty.

1. When directed by the Director of OSS, you will proceed to the following places, and such other places as are deemed necessary, for temporary duty: Pacific Coast of the United States; Hawaiian Islands; Southwest Pacific Theater.
2. This is in addition to your present duties, and upon completion thereof, you will proceed to a port in the United States, and upon arrival, return to Washington, D. C. and resume your regular duties.
3. You are authorized to omit or revisit any of the above-mentioned places, and to vary the above itinerary as may be deemed necessary.
4. In performing the above travel, government air and/or commercial air is directed where necessary to expedite completion of this duty.
5. For travel by naval transport aircraft, Class One priority is hereby certified.
6. A per diem of \$6.00 in lieu of subsistence will be allowed while outside the continental limits of the United States travelling to your first foreign special duty station and returning from your last foreign special duty station. While on special duty in obedience to these orders, per diem allowances are hereby authorized in accordance with the Secretary of the Navy's letter of April 30, 1943, quoted in Bureau of Naval Personnel Circular Letter No. 62-43.
7. A per diem of \$6.00 in lieu of subsistence will be allowed in an air travel status in the United States.

SECRET

8. In carrying out the above orders, while travelling by commercial or government aircraft, you are authorized to carry excess government baggage to the extent of not exceeding 120 pounds."

You will recall that I advised you the other day that War Department Approval had been provided for the writer's entry into the Southwest Pacific Theater. This is documented in War Department Com-in 8094, January 13, 1944.

As the General's return is imminent, and as he may give me a very nearby departure date, it is suggested that these orders be drawn.

R. Davis Halliwell
Commander, USNR

APPROVED:

G. Edward Buxton
Acting Director

SECRET

Halliwel R Davis 9, 370
X Navy Personnel

OFFICE OF STRATEGIC SERVICES
 WASHINGTON, D. C.

January 5, 1944

Colonel G. Edward Buxton
 Acting Director
 Office of Strategic Services
 Washington, D. C.

Dear Colonel Buxton:

Inasmuch as I have just returned from a trip to the Far East, and as General Donovan has directed me to prepare myself for an early departure to another theater, I find myself with only a limited period of time in which to prepare the reports which it is desirable to file on my recent surveys, and to organize the material and notes which have been given me by the General.

It is obvious that I cannot pursue the above schedule as directed, and at the same time attempt to perform any routine services or supervision in the Secret Operations Branch, where I am still charged with titular responsibility as Chief.

I, therefore, respectfully request that I be relieved from any implication of responsibility for that branch, and herewith tender my resignation as Chief of SO.

I shall be happy to accept any assignments, temporary or otherwise, in connection with the duties already outlined for me, which the Director's office may desire me to undertake.

Respectfully,

Halliwel
 R. Davis Halliwel
 Commander, USNR

Halliwel, R. Davis 2573
X Naval Postage
SECRET

(25)

9 September 1943

MEMORANDUM TO LIEUT. COMMANDER R. DAVIS HALLIWELL

Subject: Orders

1. In confirmation of oral instructions heretofore given to you by Brigadier General William J. Donovan, Director of Strategic Services, you are hereby directed to proceed to Chungking, China by way of Cairo, Egypt and New Delhi, India.

2. Upon arrival at Cairo you will report to Colonel Gustave Guenther, Strategic Services Officer, Middle East Theater of Operations, and carry out your assignment in that area.

3. While in New Delhi you will report to the headquarters of Lieut. General Joseph W. Stilwell and confer with Lieut. Colonel Richard P. Heppner, FA, Strategic Services Officer on the staff of General Stilwell, and carry out your assignment in that area.

4. You will proceed to Detachment 101, Burma, and make such reconnaissance in Burma or China as in your opinion becomes necessary or desirable.

5. You will at all times make yourself available to meet General Donovan for conference.

6. Authority is hereby granted to carry such secret and confidential documents as may be necessary to the proper performance of your mission. These documents may be shown to authorized persons, but must remain in your possession at all times until they are delivered to their addressees, if any.

TURN:BLACK

G. Edward Duxtor.
Acting Director

SECRET

TO:

Gen. Donovan

If you approve the
attached as to substance
we will ask Col.
Bejelon to have order
prepared for your
signature in the
usual manner

Office of the Secretariat *Ego*
OK

Halliwel R. 9370

OFFICE OF STRATEGIC SERVICES
WASHINGTON, D. C.

SECRET

3 September 1945

MEMORANDUM TO General Donovan
FROM Captain Carl O. Hoffmann
SUBJECT Draft of Commander Halliwel's orders.

To Commander Halliwel
From General William J. Donovan

1. Of necessity, I was obliged to give you oral instructions. You will proceed to Cairo by fastest means. Upon completion of your duties there, proceed to New Delhi where you will confer with Lt. Colonel Heppner. Then proceed to Detachment 101 when you have completed your assignment at New Delhi.
2. You will at all times make yourself available to meet me at any point for conferences.
3. If any problems come to your attention which make reconnaissance in Burma or China necessary or desirable, you are authorized to make any such reconnaissance trip.
4. As an officer of the Office of Strategic Services, you are, irrespective of the fact that you are a Naval officer, under the command of General Stilwell and I direct you to report in at his headquarters."

Carl O. Hoffmann
CARL O. HOFFMANN
Captain, AUS

WJ

Hallinell, R. Davis 93120
Naval Personnel

September 1, 1943

SECRET

TO: Captain Ward F. Davis, USN
Chief, Naval Personnel

FROM: William J. Donovan

SUBJECT: Naval Order for Lt. Commander R. Davis Hallinell, USN

It will be appreciated if you will request and have filled in the order for Lt. Commander R. Davis Hallinell covering the following:

Subject: Temporary Additional Duty.

1. On or about September 10, 1943, you will proceed to Cairo, Egypt; thence to New Delhi, India; and thence to Chungking, China, with stopover at Shanghai, for temporary duty in connection with naval matters.
2. You are authorized to halt or revisit any of the above-mentioned places, or any other OSS headquarters, or vary the above itinerary as may be deemed necessary.
3. This is in addition to your present duties and upon the completion thereof, you will proceed to a port in the United States and upon arrival, return to Washington, D. C., and resume your regular duties.
4. In performing the above travel, government air and/or commercial air is directed where necessary to expedite completion of this duty.
5. For travel by naval transport aircraft, Class One priority is hereby certified.

SECRET

- 2 -

A per diem of \$4.00 in lieu of subsistence will be allowed while outside the continental limits of the United States traveling to your first foreign special duty station and returning from your last foreign special duty station. While on special duty in obedience to these orders, per diem allowances are hereby authorized in accordance with the Secretary of the Navy's letter of April 10, 1943, quoted in Bureau of Naval Personnel Circular Letter No. 1-43.

A per diem of \$4.00 in lieu of subsistence will be allowed while in and out travel status in the United States.

In carrying out the above orders, while traveling by commercial or government aircraft, you are authorized to carry excess government baggage to the extent of not exceeding 120 pounds.*

William J. Donovan
Director

SECRET

Halliwel R Davis 9370
Navy Dept Pers

6 August 1943

TO: The Board of Officers
FROM: General Donovan

I have just noted that the recommendation for the promotion of Lieutenant Commander Halliwell to Commander has been suspended, pending my endorsement. This I am very glad to give.

In fact I would appreciate it if the Board could expedite it as we are anxious to send Commander Halliwell to the Far East at once. I think his promotion would make his visit more effective.

9246
X Naval Personnel

December 1, 1942

From: The Director of Strategic Services
To: The Chief of Naval Personnel
Subject: Mr. R. Davis Halliwell

1. Mr. R. Davis Halliwell informs me that he intends to apply for a commission in the Naval Reserve.
2. Mr. Halliwell is employed in this office. He is hereby released for service with the Armed Forces.
3. If it is found that Mr. Halliwell possesses the qualifications established by the Navy Department it is requested that he be commissioned and assigned to the Office of Strategic Services for duty.

William J. Donovan

66 signed & taken
by Mr. Halliwell 12/1/42